

***THE SUBDIVISION
REGULATIONS OF THE
CONSOLIDATED CITY AND COUNTY OF
BUTTE-SILVER BOW
STATE OF MONTANA***

BUTTE-SILVER BOW PLANNING BOARD

2002

BUTTE-SILVER BOW SUBDIVISION REGULATIONS

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SECTION 1: GENERAL

A. TITLE

These regulations shall be known and may be cited as "The Subdivision Regulations of the Consolidated City and County of Butte-Silver Bow, State of Montana".

B. AUTHORITY

Authorization for these subdivision regulations is contained in the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16).

C. INTENT AND PURPOSE

Subdivision of land to accommodate community growth and development directly affects the consolidated government of Butte-Silver Bow, its residents and the subdivider. The intent of subdivision regulations is to provide guidelines which reflect the best interests of the residents of Butte-Silver Bow and the developer.

It is the purpose of these regulations to promote public health, safety, and general welfare by regulating the subdivision of land; to prevent overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; promote the preservation of open space; promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to plat or certificate of survey.

Further, to support the purposes of 76-3-102, MCA, these regulations are intended to promote the following:

1. The orderly development of any subdivision within Butte-Silver Bow County.
2. The coordination of roads within subdivided lands with other roads, both existing and planned.
3. The provision of proper physical and legal access, including obtaining of necessary easements.
4. The provision of adequate transportation, water, drainage, and sanitary

facilities.

5. Protection of the natural environment.
6. The avoidance of excessive expenditure of public funds for the supply of public services.
7. The manner and form of making and filing of any plat for subdivided lands.
8. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all plats of subdivisions covered by these provisions.

D. JURISDICTION

These regulations govern the subdivision of land within the jurisdictional area of the Governing Body of the Consolidated city and County of Butte-Silver Bow, State of Montana, which includes all lands in Butte-Silver Bow County.

E. SEVERABILITY

Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part so held invalid.

F. GROWTH POLICY

The Butte-Silver Bow Growth Policy shall guide the use of all land within the jurisdictional area of the Governing Body of Butte-Silver Bow. The type and intensity of land use as shown on the Growth Policy shall be used as a guide to determine the character of land division including lot size and arrangement and the type and extent of streets and roads, highways, dedications, improvements, services, and other utilities and public facilities that shall be provided.

G. ZONING ORDINANCE

The Butte-Silver Bow Municipal Code, Chapter 17, Zoning, shall guide the use of all land within all areas under the jurisdiction of the Zoning Ordinance. The type and intensity of land use, as established by the Zoning Ordinance, shall be used as a guide to determine the character of all land divisions including lot size and arrangement and the type and extent of street and roads, highways, dedications, improvements, services, and other utilities and public facilities that shall be proved.

H. DEFINITIONS

The following words or phrases in these regulations have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates the use of discretion in making decisions.

1. ***Alley:*** A public way not more than thirty (30) feet nor less than sixteen (16) feet in width affording generally a secondary means of access to abutting property and not intended for general traffic circulation.
2. ***Assessor:*** The Butte-Silver Bow Assessor.
3. ***Block:*** A group of lots, tracts or parcels within well-defined and fixed boundaries such as streets, highways, waterways, railways, waterways or other means.
4. ***Certificate of Survey:*** A drawing of a field survey prepared by a Licensed Professional Land Surveyor for the purpose of disclosing facts pertaining to boundary locations.
5. ***Clerk and Recorder:*** The Butte-Silver Bow Clerk and Recorder.
6. ***Cluster Development:*** A subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public or private services and utilities, while allowing other lands to remain undeveloped.
7. ***Growth Policy:*** The name growth policy shall have the same meaning as Comprehensive Plan or Master Plan. A growth policy, as defined in Section 76-1-103, MCA, and any of its parts such as a plan of land use and zoning, thoroughfares, sanitation, and other related matters that shall guide the use of all land within the defined jurisdictional area of Butte-Silver Bow. The most recent Butte-Silver Bow Growth Policy adopted by the Butte-Silver Bow Council of Commissioners shall apply.
8. ***Condominiums:*** An estate in real property consisting of an undivided interest held in common in a parcel of real property, together with a separate interest in space within a building located on real property.
9. ***Covenant:*** A restriction or requirement placed upon the ownership of related properties within a defined area or development whereby the owners of such properties pledge that something is done, shall be done, or will not be done.

10. **Dedication:** The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.
11. **Deed:** A document signifying legal ownership of property and appurtenances.
12. **Division of Land:** The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring, or contracting to transfer, title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.
13. **Easement:** A grant by a property owner to a specific person, utility, or to the public to use land for a specific purpose or purposes, in which said property owner agrees not to build, create or construct or permit to be built, created or constructed, any obstruction, building, engineering works or other structures over, upon or under easement that would interfere with said use.
14. **Engineer (Licensed Professional Engineer):** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67) to practice engineering in the State of Montana.
15. **Examining Land Surveyor:** A Licensed Professional Land Surveyor duly appointed by the Governing Body to review surveys and plats submitted for filing.
16. **Flood of 100 Year Frequency:** A flood magnitude expected to recur on the average of one every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.
17. **Floodplain:** The area adjoining the watercourse or drainway which would be covered by the flood water of a flood of one hundred year frequency as defined by the National Flood Insurance Act and shown on the Flood Insurance Rate Maps of Butte-Silver Bow, Montana.
18. **Floodway:** The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwater of any watercourse or drainway.
19. **Governing Body:** The elected legislative body commonly known as the Council of Commissioners of the Consolidated City and County of Butte-Silver Bow municipality.
20. **Immediate Family:** A spouse, children by blood or adoption, and parents.

21. ***Irregularly Shaped Tract of Land:*** A parcel of land other than an aliquot part of the United States government survey section or a United States government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.

22. ***Lot:*** A single parcel, plot or other land area created by subdivision for sale, lease, or rent and legally described by a Certificate of Survey, plat, amended plat and/or by lots and block designation included in a recorded plat.

23. ***Lot Measurements:***

Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line;

Lot Width -- The average width of the lot;

Lot Frontage -- The width of the front lot line;

Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

24. ***Lot Types:***

Corner Lot: A lot at the intersection of two streets;

Interior Lot: A lot with frontage on only one street;

Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

25. ***Major Subdivision:*** A subdivision containing less than 160 acres which does not qualify as a minor subdivision or an exemption.

26. ***Metropolitan Sewer District:*** That area delineated by the Butte-Silver Bow Metro Sanitary and Storm Sewer Office as the Metropolitan Sanitary and Storm Sewer District No. 1.

27. ***Minor Subdivision:*** A subdivision containing five (5) or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use, and which has been approved by the Department of Environmental Quality.

28. ***Minor Subdivision – Summary Review:*** A first or a subsequent subdivision containing five (5) or fewer parcels where proper access to all lots is provided, when no land in the subdivision will be dedicated to public use for parks or playgrounds, and when the plat has been approved by the Department of Environmental Quality whenever approval is required.

29. ***Mobile Home Park:*** Any parcel or portion of a parcel of land on which two (2) or more mobile homes are located for lease or rent and occupied or intended to be occupied for dwelling purposes.

30. **Montana Department of Environmental Quality Minimum Standards:** Minimum standards as set forth by the Division of Environmental Sciences of the Montana Department of Health and Environmental Sciences, adopted pursuant to Title 76, Chapter 4, Part I, MCA.
31. **Monument (permanent monument):** Any structure of masonry, metal, or other permanent material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.
32. **Open Space:** A lane or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.
33. **Overall Development Plan:** The plan of a subdivision design for a single tract proposed to be subdivided by stages.
34. **Planned Unit Development (PUD):** A land development project consisting of residential clusters, industrial parks, shopping centers or office building parks, or any combination thereof which composes a planned mixture of land uses built in a prearranged relationship to each other and having open space and/or community facilities in a common ownership or use.
35. **Planning Board:** The Butte-Silver Bow Planning Board formed pursuant to Title 76, Chapter 1, MCA.
36. **Planning Director:** Shall mean the Butte-Silver Bow Planning Director or his designated representative, who is vested with the duty of administering subdivision and platting regulations within the jurisdictional area of Butte-Silver Bow, Montana.
37. **Plat:** A graphic representation of a subdivision showing the division of land into lots, parcels, streets, and alleys and other divisions and dedications.

Preapplication Plat: A sketch plan of the proposed subdivision submitted for review and discussion. It provides information on certain physical and legal aspects of the parcel of land proposed for subdivision.

Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision as required by these regulations that furnish a basis for review by the Governing Body or its designated agent.

Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the Clerk and Recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16).

Amended Plat: The final drawing of any change to a platted subdivision filed with the Clerk and

Recorder required to be prepared for filing for record with the Clerk and Recorder and containing all elements and requirements set forth in these regulations and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16).

38. **Public Improvement:** Any structure or facility constructed to serve the residents of a subdivision or the general public including but not limited to parks, streets and roads, sidewalks, curbs and gutters, street lighting, utilities and systems for water supply, sewage (and solid waste) disposal and drainage.

39. **Public Road or Street:** A road or street for which a municipality, county or a state or federal agency has maintenance responsibility.

40. **Recreational Vehicle Park:** A parcel or portion of a parcel of property used for public camping having rental space available for individual camping trailers, pickup campers, motor homes, travel trailers or automobiles for transient dwelling purposes.

41. **Recreational Vehicle Space:** A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle for the exclusive use of its occupants.

42. **Right-of-Way:** A strip of land dedicated or acquired for use as a public way.

43. **State:** The State of Montana.

44. **Street:** A public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property. The term street shall include arterial, avenue, boulevard, circle, drive, highway, lane, parkway, place, road thoroughfare, or any other similar term.

45. **Street Types:** For the purposes of these regulations, street types are defined as follows:

Arterial: A street or road having the primary function of moving large volumes of traffic and the secondary function of providing access to adjacent land. Arterials have two to four lanes of moving traffic and provide limited access to abutting property.

Principal Arterial: Streets which serve the major centers of activity or a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and which carry a high proportion of the total urban area travel on a minimum of mileage.

Minor Arterial: Streets which interconnect with and augment the principal arterials, provide service to trips of moderate length at a lower level of travel mobility than principal arterials, and distribute traffic to geographic areas smaller than those identified for principal arterials.

Collector: A street or road performing equally the functions of moving traffic and providing access to adjacent land. Collector streets shall have two moving traffic lanes and two parking

lanes.

Local Street: A street or road having the primary function of providing access to abutting properties, with a secondary function of moving traffic. Local streets have two moving lanes of traffic and may include one or two parking lanes.

46. **Subdivider:** Any person, firm, corporation or other entity who causes land to be subdivided or who proposes a subdivision of land.

47. **Subdivision:** A division of land or land so divided that creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

48. **Subdivision Review Committee:** A committee consisting of the Directors or their appointed representatives of the affected public agencies of Butte-Silver Bow including, but not limited to Planning, Public Works, Health Department and Community Development, Parks and Recreation Board; representatives of the utility companies and affected state agencies. The committee shall review preapplication and preliminary plats for compliance with all development standards, zoning criteria and other goals and objectives of Butte-Silver Bow.

49. **Surveyor (Licensed Professional Land Surveyor):** A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

50. **Swale:** A drainage channel or depression designed to direct surface water flow.

51. **Townhouse:** A single-family dwelling unit attached to one or more other single-family dwelling units, provided that only one such dwelling is located on a lot.

52. **Townhouse Subdivision:** A division of land for purposes of creating "townhouses" as defined in this section that has associated with it, an undivided interest in common in a parcel of real property and a separate interest in the real property within the boundaries covered by the building unit.

53. **Tract:** A land area proposed to be subdivided.

54. **Tract of Record:** (A) An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county Clerk and Recorder's Office.

- (B) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:
 - 1) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner(s) intention that the tracts be merged; or
 - 2) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.
- (C) An instrument of conveyance does not merge parcels of land under subsection (54)(b)(1) unless the instrument states, “This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument”, or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner(s) intent to effect a merger of parcels.

55. *Traffic Control Device:* Any sign, signal, marking, or device placed or erected for the purpose of regulating, warning, or guiding vehicular traffic and/or pedestrians.

56. *Utility:* Includes, but is not limited to, telephone, natural gas, electricity, water and sewer, and cable television.

57. *Vicinity Sketch:* A map at scale identifying the location of the proposed subdivision, showing the boundary lines of all adjacent subdivisions, certificates of survey, and streets and other information necessary to determine the general location of the proposed subdivision.

SECTION 2: SUBDIVISION CLASSIFICATION AND PROCEDURES

A. REQUIREMENTS

No subdivider shall proceed with any construction work or public improvements on a proposed subdivision, until the proper approval has been received from the appropriate division of the Butte-Silver Bow County Government and/or the State of Montana.

B. CLASSIFICATION OF LAND DIVISIONS

These regulations recognize that there are different magnitudes or forms of land divisions as contained in the provisions of the Montana Subdivision and Platting Act and has classified these divisions as follows:

1. **Major Subdivision** - a land division containing less than 160 acres which does not qualify as a minor subdivision or an exemption.
2. **Minor Subdivision** - a land division proposing to create five (5) or less lots of record, when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds.
3. **Minor Subdivision – Summary Review** – A first or subsequent division of land from a tract of record that proposes to create five or fewer lots shall be classified as a Minor Subdivision – Summary Review, when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds, and when plats have been approved by the Department of Environmental Quality (DEQ) whenever DEQ approval is required.
34. **Subdivision Exemptions** - as provided in the Montana Subdivision and Platting Act and these regulations, there are nine categories of land divisions recognized within the subdivision exemption classifications. Those classifications are as follows:
 - a) Exemptions for certain divisions of land, as stated in MCA 76-3-201;
 - b) Exemption of structures on complying subdivided lands, as stated in MCA 76-3-202;
 - c) Exemption for certain condominiums, as stated in MCA 76-3-203;
 - d) Exemption for conveyances of one or more parts of a structure or

improvement, as stated in MCA 76-3-204;

- e) Exemption for airport and state-owned lands – exception, as stated in MCA 76-3-205;
- f) Exemptions for conveyances executed prior to July 1, 1974, as stated in MCA 76-3-206.
- g) Subdivisions exempt from public review but subject to surveying and filing requirements, as stated in MCA 76-3-207;
- h) Subdivisions exempt from filing and surveying requirements but subject to review provisions, as stated in MCA 76-3-208.
- i) Exemption from surveying and platting requirements for lands acquired for state highways, as stated in MCA 76-3-209.

C. REVIEW AND APPROVAL PROCEDURES

The basis for the governing body's decision to approve, conditionally approve, or deny a subdivision is whether the preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the subdivision meets the requirements of this chapter. The governing body may not deny the approval of a subdivision based solely on the subdivision's impacts on educational services.

The review requirements and approval process shall be in accordance with the subdivision classifications as follows:

1. Subdivisions shall require review of a preliminary and final plat by the Planning Board. The Planning Board shall make a recommendation to the Governing Body to deny, approve, or conditionally approve the preliminary and final plat. The Governing Body shall approve, conditionally approve, or deny the preliminary and final plat of all subdivisions. Review of the preliminary plat of a major subdivision shall be conducted at a public hearing as outlined in Section 76-3-605 of the Montana Subdivision and Platting Act.
 - (a) The provision of holding a public hearing does not apply to a minor subdivision;
 - (b) Minor subdivisions shall require review and approval of the preliminary and final plat by the Planning Board. In addition, final plats are subject to approval by the Governing Body.

- (c) The Planning Board has delegated its authority to review and approve the preliminary plat of a 'low impact' minor subdivision to the Planning Director or his designated subdivision administrator. Acting in that regard, the Planning Director or the designated subdivision administrator shall make a recommendation directly to the Governing Body to approve, deny or conditionally approve the final plat of a 'low impact' minor subdivision. The final plat of a 'Low impact' Minor Subdivisions shall require review and approval by the Governing Body.

2. Exemptions shall be reviewed as follows:

- a) It shall be the duty of any agency or persons responsible for examining land divisions exempted from public review to assure that such exemptions are in compliance with the purpose and intent of the Montana Subdivision and Platting Act and these regulations.

2. Survey requirements for lands other than subdivisions. All divisions of land for sale other than a subdivision after July 1, 1974, into parcels which cannot be described a 1/32 or larger aliquot parts of a United States government section of a United States government lot must be surveyed by or under the supervision of a licensed professional land surveyor. Surveys required under this section must comply with the requirements of 76-3-406, MCA.

4. If the proposed subdivision is situated within a rural school district, as described in section 20-9-104, MCA, an informational copy of the preliminary plat shall be provided to the school district.

SECTION 3: PREAPPLICATION REVIEW

A. PURPOSE AND PROCEDURE

1. The purpose for the preapplication review is to familiarize the subdivider with the subdivision regulations and development standards of Butte-Silver Bow and to identify how these regulations and standards relate to the proposed subdivision.
2. The subdivider or his authorized agent may meet with the Subdivision Review Committee at least three weeks prior to submitting a Preliminary Plat to the Planning Department.
3. The comments of the Subdivision Review Committee shall not constitute approval of a Preliminary Plat. Those comments shall constitute a preliminary general review of the compatibility of the proposed subdivision with the Butte-Silver Bow Subdivision Regulations and are in no way equal to the preliminary or final plat review.

B. PREAPPLICATION REQUIREMENTS

1. The subdivider shall provide a sketch plan of the proposed subdivision for review and discussion. The sketch plan shall be legibly drawn showing in simple form, the layout and design of proposed division of land in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map or a survey drawing.
2. The sketch plan should contain such pertinent information as required by these regulations including: approximate tract and lot boundaries, location of easements, utilities, rights-of-ways, parks, and open spaces, and a description of general terrain, natural features, existing structures, and improvements, and proposed public improvements such as water sources, sewer facilities, drainage, etc.

SECTION 4: *PRELIMINARY PLAT-MAJOR SUBDIVISION*

A. *PRELIMINARY PLAT REQUIRED*

1. The subdivider shall submit to the Planning Board for review and approval, a Preliminary Plat of the proposed subdivision which conforms to the requirements of these regulations. The Preliminary Plat shall be prepared under the supervision of a Surveyor licensed to practice in Montana.

B. *PRELIMINARY PLAT APPLICATION*

1. Pursuant to the conclusions recommended in the preapplication procedure regarding his general proposal and objectives, the subdivider shall prepare or cause to be prepared, a Preliminary Plat together with the supplementary materials as specified in Section 4(C) of these regulations.
2. A written application for approval of the Preliminary Plat together with the required fee as established in this ordinance and three (3) 24" x 36" copies and one (1) 11" x 17" copies of the Preliminary Plat and plat supplements shall be submitted to the Planning Board Staff.
3. Application for Preliminary Plat approval shall be made to the Planning Board Office on or before the first working day of any given month in order for the plat to be considered at that month's meeting. Applications submitted after this deadline will be considered at the next month's meeting.

C. *PRELIMINARY PLAT FORM, CONTENTS AND SUPPLEMENTS*

1. The Preliminary Plat shall meet the standards of design set forth in these regulations and shall clearly show the following information:
 - a) Name and location of the subdivision, bar scale, true North arrow and date of preparation. Said name shall not duplicate or closely resemble the name of any other subdivision in the planning area;
 - b) Names of owner(s) and names of subdivider(s) and Engineer or Surveyor;
 - c) Names of adjoining subdivisions and certificates of survey;

- d) Location of all existing physical features such as structures, utilities, ditches, rock outcroppings, reservations, easements, etc., on or contiguous to the tract;
- e) The approximate location of all section corners or legal subdivision corners of sections in proximity to the subdivision boundary;
- f) All proposed streets, alleys, avenues, roads, and highways, and the width of the right-of-way, tentative grades and proposed curvature of each with existing and proposed street names, and proposed location of intersections or other access points for any subdivision requiring access to arterial or collector highways;
- g) The approximate location, boundaries, dimensions and area of any parks, common grounds, or other grounds to be dedicated for public use;
- h) Any existing or proposed utilities located on or adjacent to the tract including:
 - (1) The approximate location, size and depth of sanitary and storm sewers;
 - (2) The approximate location and size of water mains and fire hydrants;
 - (3) The approximate location of natural gas, electric, and telephone lines, and street lights;
 - (4) The location of the nearest mains and sewer lines where none are located on or adjacent to the tract.
- i) Lot lines, lot numbers, lot areas, and block numbers;
- j) Site data including number of residential lots, typical lot areas, acres of parks, etc.;
- k) Sites, if any for multi-family dwellings, shopping centers, churches, industry or non-public uses exclusive of single-family dwellings;
- l) Tentative finished grades of each street shall be indicated by spot elevations;

- m) Net and gross acreage of land subdivided. Gross acreage constitutes the entire area of land contained in the subdivision. Net acreage is the gross acreage less that area designated as dedicated parkland and public right-of-way;
- n) Location of streams, lakes, swamps and land subject to flooding as determined from past history of flooding. Recommend a meander line established not less than twenty (20) feet back from the ordinary high water mark of such waterways where applicable as determined by the professional land surveyor;
- o) Contour lines shall be provided for the tract according to the following requirements:

WHERE AVERAGE SLOPE IS:	CONTOUR INTERVALS SHALL BE:
Under 10%	2 feet (if all lots are over one acre in size, 5 feet)
Between 10% and 15%	5 feet
15% or greater	10 feet

In the case where the existing subdivision is to be further divided, a copy of the existing plat with the proposed redivision imposed thereon;

- p) Present zoning classification and/or proposed zoning classification of the plat and the adjoining property;
 - q) Vicinity sketch;
 - r) All plats shall conform to the following size: 24 x 36 inches;
 - s) All plats shall be neatly drawn in a professional manner.
2. Supplementary and supporting data shall consist of written drafts including the following as applicable:
- a) Draft of protective and restrictive covenants whereby the subdivider proposes to regulate land use in the subdivision;

- b) If common property is to be deeded to a property owners' association, the subdivider shall submit a draft of the regulations which govern the association. These regulations shall, at a minimum, provide that:
 - (1) The property owners' association will be formed before any property is sold;
 - (2) If a homeowners' association is formed, membership is mandatory for each property buyer and any subsequent buyer;
 - (3) The reservation of common property will be perpetual;
 - (4) The association will be responsible for liability insurance, any applicable taxes or assessments, and the maintenance of any common property or facilities;
 - (5) Property owners must pay their prorated share of the cost of any common expenses and that any unpaid assessment charges by the association can constitute a lien on individual parcels;
 - (6) The association may adjust assessments to meet changing needs.
- c) When a tract of land is to be subdivided in phases, the subdivider must provide an overall plan indicating his intentions for the development of the remainder of the tract;
- d) A current U.S. Geological Survey Topographic map, an aerial photograph or a location map indicating the subdivider's intentions for the development of the remainder of the tract, may be used to provide the information required in (c);
- e) Sewage disposal, storm drainage and/or water. The subdivider shall provide a written statement from the utility agencies involved as to whether the services can be provided;
- f) Environmental assessment as required in Section 16;
- g) Name and addresses of adjacent property owners including those owners of property which lies across streets, alleys or other

easements;

- h) An Abstract Certificate of Title which shall be submitted to the County Attorney for review;
- i) A report from the Examining Surveyor stating acceptability or corrections necessary to comply with the Montana Subdivision and Platting Act.

D. PRELIMINARY PLAT APPROVAL AND APPROVAL PERIOD

1. Notice of a public hearing before the Planning Board shall be given by publication in a newspaper of general circulation in the county, not less than fifteen (15) days prior to the date of the hearing. The hearing will be held on the last Thursday of the month of submittal. The subdivider, each property owner of record, and each purchaser under contract for deed of the property immediately adjoining the land included in the plat shall be notified of the hearing by certified mail not less than 15 days prior to the date of the hearing.
2. The Planning Board shall conduct the public hearing and consider all relevant evidence relating to the proposed plat before preparing their final written findings of fact (also known as: Preliminary Plat Staff Analysis) and recommendations to the Governing Body.
3. The relevant evidence considered at the public hearing on the Preliminary Plat shall include but not be limited to the following:
 - a) The environmental assessment;
 - b) Conformance with the local adopted Growth Policy and transportation plan;
 - c) Conformance with the provisions of the Montana Subdivision and Platting Act;
 - d) Conformance with all sanitary requirements;
 - e) Conformance with all requirements of the zoning laws in effect.
4. After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall act in an advisory capacity and submit its findings and recommendations to the Governing Body to approve,

conditionally approve or deny the Preliminary Plat. This recommendation must be submitted in writing not more than ten (10) days after the public hearing. A copy of this recommendation shall also be mailed to the subdivider.

5. The Governing Body shall approve, conditionally approve, or deny the Preliminary Plat within sixty (60) working days of its presentation, unless the subdivider consents to an extension of the review period.
6. The governing body shall review the preliminary plat to determine whether it conforms to the provisions of this chapter and to rules prescribed or adopted pursuant to this chapter.

The Governing Body shall issue written Findings of Fact that discuss and weigh the following criteria (pursuant to 76-3-608, MCA):

- a) Effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and the public health and safety;
 - b) Compliance with the survey requirements of the MSPA, and the regulations and review procedures of these local subdivision regulations;
 - c) The provision of easements for the location and installation of any necessary utilities or easement corridors; and
 - d) The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
7. Upon approval or conditional approval of the Preliminary Plat, the Governing Body shall provide the subdivider with one (1) copy of a dated and signed statement of approval. The approval shall guarantee that the terms of the approval will not be affected by changes in the subdivision regulations and that the Governing Body may not impose any additional conditions as a prerequisite to Final Plat Approval, providing said approval is obtained within the original or extended approval period as provided in Section (4)(D)(8).

If the Governing Body denies or conditionally approves the Preliminary Plat, it shall forward one (1) copy of the subdivision plat to the subdivider accompanied by a letter over the appropriate signatures stating the reason

for denial or enumerating the conditions of approval which must be met to assure approval of the Final Plat. That statement must also include:

- a.) The evidence that justifies the denial or condition imposition;
- b.) Information regarding the appeal process for the denial or conditional approval.

8. Approval shall be effective for not more than three (3) calendar years; at the end of this period the Governing Body may, at the request of the subdivider, extend its approval for not more than one (1) calendar year, except that the governing body may extend its approval for a period of more than 1 year if the approval period is included as a specific condition of a written agreement between the governing body and the subdivider. Approval of the Preliminary Plat shall not constitute approval of the Final Plat.

After the preliminary plat is approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval providing such approval is obtained within the original or extended approval period as provided in the previous paragraph.

The Council may withdraw approval of a plat if it determines that information provided by the subdivider upon which the approval is based, is inaccurate.

SECTION 5: FINAL PLAT - MAJOR SUBDIVISION

A. FINAL PLAT REQUIRED

1. After receiving Preliminary Plat approval, the subdivider may submit to the Planning Board a Final Plat of the proposed subdivision for review and approval as required by these regulations. The Final Plat shall conform to the Preliminary Plat as previously reviewed and approved by the Governing Body and shall incorporate all modifications required by its review.
2. A Final Plat must be submitted prior to the expiration date of the Preliminary Plat as provided in Section 4-D-(8) of this Ordinance. If a Final Plat is not submitted prior to the expiration of the Preliminary Plat, then procedures required for the approval of a Preliminary Plat are required before submittal of the final map can be accepted.
3. The Final Plat shall also comply in every respect with the Montana Uniform Standards for Final Subdivision Plats (Title 76, Chapter 3, MCA).

B. FINAL PLAT APPLICATION

1. Written application for approval of the Final Plat together with the required fee as established in this Ordinance, and three (3) 24" x 36" copies and one (1) 11" x 17" copy of the Final Plat shall be submitted to the Planning Department.
2. Additional copies of the Final Plat and supplementary materials shall be submitted to the Planning Board Office for distribution to affected departments for their review and report.
3. Application for Final Plat approval shall be made on or before the first working day of the month in order for the plat to be considered by the Planning Board at that month's meeting. Applications submitted after the deadline will be considered at the following month's meeting.

C. FINAL PLAT FORM, CONTENTS AND SUPPLEMENTS

1. The Final Plat shall comply with all the conditions of approval for the Preliminary Plat and Section 8.94.3001 through 8.94.3003 of the Administrative Regulations of the State of Montana. (The Montana Uniform Standards for Monumentation, Certificates of Survey and Final

Subdivision Plats.)

2. The County Treasurer shall have certified that no real property taxes assessed and levied on the land to be subdivided are delinquent.
3. A copy of the Final Plat shall be submitted to the Examining Surveyor's Office to review for errors or omissions and a report from the Examining Surveyor certifying that the Final Plat is correct shall be submitted to the Planning Board office with the Final Plat application.
4. A copy of the Final Plat and supplementary material as specified in these regulations, together with an Abstract Certificate of Title, may be submitted to the County Attorney for review and a report from the County Attorney's Office indicating that all said documents are satisfactory shall be submitted to the Planning Board Office for consideration with the Final Plat application.
5. A copy of the Final Plat together with a copy of the improvement plans including a detailed cost estimate for said improvements shall be submitted to the Public Works Department for review and verification that all improvements comply with conditions of the Preliminary Plat approval and the improvement design standards of these regulations.

A report from the Public Works Department indicating that the improvement plans meet the requirements of the Preliminary Plat and design standards shall be submitted to the Planning Board Office for consideration with the Final Plat application.

6. The final plat submitted for approval shall show or contain, on its face or on separate sheets referenced on the plat, as per uniform standards for final subdivision plats and monumentation:
 - a) A title block indicating the quarter-section(s), section, township, range, principal meridian, and county of the subdivision. The title of the plat shall contain the words "plat" and "subdivision";
 - b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and ties thereto;
 - c) North point;
 - d) Scale bar (scale shall be sufficient to legibly represent the required

data on the plat submitted for filing);

- e) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
- f) Witness monuments, basis for bearing, bearings and lengths of lines;
- g) The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given;
- h) Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
 - (1) Radius of curve;
 - (2) Arc length;
 - (3) Notation of non-tangent curves.
- i) Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearing shown to at least the nearest minute;
- j) The location of all section corners of sections pertinent to the subdivision boundary;
- k) All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots. (Excepted parcels shall be marked "Not included in this subdivision" or "Not included in this plat;" as appropriate, and the boundary completely indicated by bearings and distances.);
- l) All streets, alleys, avenues, roads and highways; their widths, bearings; the width and purpose of all rights-of-way; and the names of all streets, roads and highways;
- m) The location, dimensions and areas of all parks, common areas, and all other grounds dedicated for public use;
- n) Acreage of the subdivision, gross and net;

- o) A legal description of the perimeter boundary of the tract surveyed;
- p) All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must be clearly shown;
- q) The signature and seal of the Licensed Professional Land Surveyor responsible for the survey. The affixing of his seal constitutes a certification by the Surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, MCA) and the regulations adopted pursuant thereto;
- r) Memorandum of oaths administered pursuant to section 76-3-405, MCA;
- s) Certification by the governing body that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local government review under Section 76-3-207 (1) (e). Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207 (1) (e), MCA, approval by the local governing board is not required for relocation of common boundary line or aggregation of lots.

7. The following documents shall accompany the approved final plat when filed with the County Clerk and Recorder:

- a) Certification of dedication of streets, parks or playgrounds, or other public improvements, or of cash donation in lieu of dedication, when applicable;
- b) Certification by a licensed title abstractor showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land;

- c) Copies of any covenants or deed restrictions relating to public improvements;
- d) Certification by the Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities;
- e) Copies of articles of incorporation and by-laws for any property owners' association;
- f) Certification by the subdivider indicating which require public improvements have been installed and a copy of any subdivision improvements agreements securing the future construction of any additional public improvements to be installed;
- g) Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a Registered Professional Engineer that all required improvements which have been installed are in conformance with the attached plans;
- h) Certification by the governing body expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification;
- i) Certification of Examining Land Surveyor where applicable;
- j) Copy of the state highway permit when a new street will intersect with a state highway.

D. FINAL PLAT REVIEW

1. The governing body shall examine every final subdivision plat and shall approve it when and only when:
 - A. It conforms to the conditions of approval set forth on the preliminary plat and to the terms of this chapter and regulations adopted pursuant thereto; and
 - B. The county treasurer has certified that all real property taxes assessed and levied on the land to be subdivided have been paid and that no taxes are delinquent on the property to be subdivided.

2. All final subdivision plats shall be reviewed for errors and omissions in calculations or drafting by an examining land surveyor before recording with the county clerk and recorder. When the survey data shown on the plat or certificate of survey meets the conditions set forth by or pursuant to these regulations, the examining land surveyor shall so certify in a printed or stamped certificate on the plat or certificate of survey. Such certificate shall be signed by him or her.

No land surveyor shall act as an examining land surveyor in regard to a plat or certificate of survey in which he has financial or personal interest.

3. Prior to filing the final plat with the Clerk and Recorder, the applicant must receive written certification on the face of the final plat by the Planning Department that all conditions placed on the approval of the preliminary plat by the Council of Commissioners, have been satisfied.

E. FINAL PLAT APPROVAL

1. The Final Plat, including all supplementary material together with reports from the Examining Surveyor, County Attorney and Public Works Department shall be considered at the next regularly scheduled meeting by the Planning Board for recommendation as to compliance with the approved Preliminary Plat.
2. The Final Plat, including all supplementary material and reports, a copy of the Subdivision Improvement Agreement as required by Section 11 of these regulations, along with the Planning Board recommendation shall then be presented to the Governing Body for approval at its next regularly scheduled meeting.
3. The Governing Body shall approve the Final Plat if it conforms to the approved Preliminary Plat and the improvement plans meet all requirements of these regulations.
4. Approval and acceptance of land dedications shall be made by resolution of the Governing Body and shall be noted on the face of the Final Plat.
5. If the Final Plat is denied, the reasons for denial shall be stated in the records of the Governing Body and a written copy forwarded to the applicant. The Governing Body shall return the opaque mylar reproduced by a process guaranteeing a permanent record of the Final Plat to the subdivider within ten (10) days of the action.

6. The Subdivision Improvement Agreement guaranteeing that all required improvements will be installed by the subdivider shall be submitted with the final plat to the Planning Board for preliminary approval. Final acceptance of the Subdivision Improvement Agreement shall be executed by the County Attorney and Governing Body.
7. The decision to accept a cash-in-lieu of park land dedication, in applicable cases, shall be considered with the preliminary plat application. The amount of the cash-in-lieu shall be determined as provided in Section 76-3-606 of the Montana Subdivision and Platting Act and shall be approved by separate resolution of the Governing Body.
8. Upon receiving final approval and authorization of the preliminary plat by the Governing Body, the subdivider shall present the Final Plat to the Montana Department of Environmental Quality for final approval and authorization.

F. FINAL PLAT FILING

1. Prior to filing with the Office of the Clerk and Recorder, the Final Plat shall be submitted to the Planning Board Office for review to ensure that all required signatures and other relevant data have been incorporated and that all preliminary plat conditions of approval have been met. The Planning Department will verify that all preliminary plat conditions have been met, by signing the face of the final plat.

Upon request of the subdivider and after verification by the Planning Board Office of the satisfaction of all preliminary plat conditions of approval, the Final Plat shall be submitted to the Clerk and Recorder's Office for filing. After filing, the Final Plat shall not be altered in any manner except as provided for in these regulations. The County Clerk and Recorder shall refuse to accept any plat for filing that fails to have approval in proper form or has been altered, and shall file the approved plat only if it is accompanied by the documents specified in Uniform Standards for Final Subdivision Plats.

G. CORRECTING FINAL PLATS

When a recorded plat does not definitely show the location or size of lots or blocks or the location or width of any street or alley, the governing body may at its own expense cause a new and correct survey and plat to be made and recorded in the office of the county clerk and recorder. The corrected plat must, to the extent

possible, follow the plan of the original survey and plat. The surveyor making the resurvey shall endorse the corrected plat referring to the original plat and noting the defect existing therein and the corrections made.

1. The Final Amended Plat submitted for approval shall comply with the Montana Subdivision and Platting Act, Title 76, Chapter 3, Local Regulations of Subdivisions. All corrections shall conform with Section 7: Subdivision Exemptions, of the Butte-Silver Bow Subdivisions Regulations. The face of the final plat shall include a statement describing the circumstance that necessitates the correction and why the correction would be in the public's interest.

SECTION 6: MINOR SUBDIVISION

A. MINOR SUBDIVISION PLAT REQUIRED

Subdivision containing five or fewer parcels when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds, and when Department of Environmental Quality approval has not yet been granted, are to be reviewed as follows:

1. The governing body shall approve, conditionally approve, or disapprove all minor subdivisions from a tract of record within 35 working days of the submission of the application unless the subdivider consents to an extension of the review period.
2. The governing body shall state in writing the conditions that must be met if the subdivision is conditionally approved or what local regulations would not be met by the subdivision if disapproved.
3. The requirements for holding a public hearing and preparing an environmental assessment do not apply to the first minor subdivision created from a tract of record.
4. Subsequent subdivisions from a tract of record must be reviewed under Section 6(E), Minor Subdivisions – Summary Review and the regulations adopted pursuant to that section.
5. Unless otherwise set forth in this section, minor subdivisions will comply with and be reviewed under the criteria established in Sections 4 and 5.

B. MINOR SUBDIVISION PLAT APPLICATION

1. Written application together with the required fee, a certificate of a title abstractor showing the names of the owners of record and any lienholders or claimants of record against the land and three (3) 24" x 36" copies and one (1) 11" x 17" copy of the proposed Minor Subdivision Plat shall be submitted to the Planning Board Office.
2. The minor Subdivision Plat shall be reviewed by the Subdivision Administrator for compliance with the submittal requirements of these regulations.

3. Within twenty-one (21) days from the date of submittal, the Subdivision Administrator shall prepare, in writing, a Staff Analysis and Finding of Fact that makes a recommendation to the Planning Board to approve, conditionally approve or deny the proposed subdivision.
4. Copies of the Staff Analysis and Findings of Fact shall be provided in writing to the subdivider and Planning Board and shall state the conditions which must be met if the Minor Subdivision is recommended for conditional approval or what regulations and standards would not be met if the Minor Subdivision is recommended for denial.

C. MINOR SUBDIVISION PLAT FORM, CONTENTS AND SUPPLEMENTS

1. The Minor Subdivision Plat shall comply with all the conditions of Sections 8.94.3001 through 8.94.3003 of the Administrative Regulations of the State of Montana. (The Uniform Standards for Monumentation, Certificates of Survey and Final Subdivision Plats.)
2. A copy of the Minor Subdivision Plat shall be submitted to the Examining Surveyor's Office to review for errors and omissions.
3. A copy of the Minor Subdivision Plat and Supplementary materials as specified in these regulations, together with an Abstract Certificate of Title, shall be submitted to the County Attorney's Office for review and a report indicating that all said documents are satisfactory. Said report shall be submitted to the Planning Board Office for consideration with the Minor Subdivision Plat application.
4. A copy of any improvement plans, including cost estimates, shall be submitted to the Public works Department for review and verification that such improvements comply with the design standards of these regulations. A report from the Public Works Department indicating that the proposed improvements meet the requirements of the design standards shall be submitted to the Planning Board Office to be considered with the Minor Subdivision Plat application.
5. A copy of the Minor Subdivision Plat together with the proper application shall be submitted to the Montana Department of Environmental Quality for review and a report indicating that all sanitary and water facilities are satisfactory. Said report shall be submitted to the Planning Board Office for consideration with the Minor Subdivision Plat application.

D. MINOR SUBDIVISION PLAT APPROVAL

1. At the next regularly scheduled meeting, the Planning Board shall consider the Minor Subdivision Plat, together with the Staff Analysis and Findings of Fact including the recommendation of the Subdivision Administrator, to determine whether the Minor Subdivision conforms with the adopted local zoning ordinance, the provisions of the Montana Subdivision and Platting Act and to these regulations.
2. The Planning Board shall recommend, in writing, approval, conditional approval or denial of the Minor Subdivision to the governing body.
3. The Minor Subdivision Plat, together with the Planning Board recommendation and all supplementary materials shall be presented to the Governing Body for final consideration at its next regularly scheduled meeting.
4. The Governing Body shall approve, conditionally approve or deny the first minor Subdivision from a tract of record, no more than thirty-five (35) working days after the application has been submitted for review unless the subdivider consents to an extension of the review period. Approval and acceptance of the final plat shall be made by resolution of the Governing Body and shall be noted on the face of the Minor Subdivision Plat. In addition, the provisions of Section 5 (E) and 5 (F) also apply.

E. ***MINOR SUBDIVISIONS – SUMMARY REVIEW***

A first or subsequent division of land from a tract of record that proposes to create five or fewer lots shall be classified as a Minor Subdivision – Summary Review, when proper access to all lots is provided and when no land is to be dedicated to the public for parks or playgrounds, and when plats have been approved by the Department of Environmental Quality (DEQ) whenever DEQ approval is required, are to be reviewed as follows:

1. The governing body shall approve, conditionally approve, or deny a proposed subdivision that is eligible for review under this section within thirty-five (35) days of submission of the subdivision application;
2. Proposed subdivisions eligible for review under this section that are located entirely within a jurisdictional area covered by the Growth Policy or Zoning Ordinance are exempt from the following:
 - a) the requirement of holding a public hearing on the preliminary plat.
 - b) adjacent landowner notification;
3. The first minor subdivision from an original tract of record is exempt from preparing an environmental assessment.
4. All subsequent minor subdivisions reviewed under this section shall submit with the preliminary plat, a summary of the probable impacts of the proposed subdivision based on the criteria described in Section 4(D)(6).
5. Minor Subdivisions - Summary Review must meet the following additional requirements:
 - a) The proposed subdivision is not located on land:
 - (1) unsuitable for development, as defined by local subdivision regulations;
 - (2) subject to natural or man-made hazards; or
 - (3) where significant adverse effects on wildlife, the natural environment or public health or safety would occur.
6. As allowed by MCA 76-1-107, for Minor Subdivision – Summary Review subdivisions only the Planning Board has delegated its authority to review the preliminary plat to the Subdivision Administrator. Following review,

the subdivision administrator submits written Findings of Fact pursuant to 76-3-608, MCA, to the governing body within 21 days after submittal.

7. The governing body, at its next regular meeting, makes any changes to the written Findings of Fact, and acts to approve, conditionally approve or disapprove the subdivision. The subdivider is notified of the governing body's action. The governing body shall state in writing the conditions that must be met if the subdivision is conditionally approved or what regulations would not be met by the subdivision if it disapproves the subdivision.
8. The subdivider:
 - a) Completes any required surveying functions and prepares a final plat that complies with the Uniform Standards for Surveying and Monumentation;
 - b) Meets any conditions of approval specified by governing body;
 - c) Submits the final plat and all supporting documents to the subdivision administrator who will determine if the final plat and supporting documents proposed to be filed satisfy all filing requirements, prior to filing the final plat;
 - a) Submits final plat and required documents to the County Clerk for filing.
9. The Subdivision Administrator:
 - a) shall sign the face of the final after the proposed subdivision meets any conditions of approval and after the subdivision meets all surveying and filing requirements.

SECTION 7: SUBDIVISION EXEMPTIONS

A. CLASSIFICATION OF EXEMPTIONS

As noted in Section 2 of these regulations, there are three categories of land divisions which have been exempted in the Montana Subdivision and Platting Act from public review and/or surveying requirements. These regulations have classified the Subdivision Exemptions as follows:

1. Class I Exemptions - Land divisions which are exempt from review and surveying or platting requirements.
2. Class II Exemptions - Subdivisions which are exempt from review but subject to surveying and filing requirements.

Class IIA - Land divisions not classified as exemptions under Class II.

3. Class III Exemptions - Subdivisions which are exempt from surveying or filing requirements but subject to review and approval.

B. CRITERIA FOR EXEMPTION CLASSIFICATION

1. Class I Exemptions - The following land divisions shall be exempt from public review and surveying or platting requirements:
 - a) Land divisions created by order of any court of record in the State of Montana or by the operation of law or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain. Before a court of record orders a division of land under subdivision, the court shall notify the governing body of pending division and allow that governing body to present written comment on the division;
 - b) Land divisions created to provide security for construction mortgages, liens, or trust indentures;
 - c) Where a land division creates an interest in oil, gas, minerals or water which is now or hereafter severed from the surface ownership of real property;
 - d) Land divisions created for cemetery lots;

- e) A land division is created by the reservation of a life estate;
- f) A land division is created by lease or rental for farming and agricultural purposes;
- g) An existing subdivision where the existing improvement is created for the sale, rent, lease, or other conveyance of one or more parts of a building, structure or other improvement located on one or more parcels of land;
- h) A division of land that is in a location over which the state does not have jurisdiction.
- i) A land division is created for the conveyance of condominiums constructed on land divided in compliance with these regulations if
 - 1. The approval of the original division of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in Section 13, Dedication of Public Parks and Open Space, are complied with; or
 - 2. The condominium proposal is in conformance with applicable local zoning regulations where local zoning regulations are in effect.
- j) The division of state-owned land unless the division creates a second or subsequent parcel for sale, rent, or lease for residential purposes;
- k) The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed;
- l) Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.
- m) A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the state, or a municipal or

regional airport authority, if the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities.

2. A. Class II Exemptions - The following divisions of land are exempt from public review but are subject to surveying and platting requirements:
 - a) Divisions of land made outside of platted subdivisions for the purpose of relocating common boundaries or size of two adjoining properties;
 - b) For five or fewer lots within a platted subdivision for the purpose of relocating common boundaries or the aggregation of lots, providing no additional lots are created;
 - c) Divisions of land outside of platted subdivisions by gift, sale or agreement to buy and sell in which the parties to the transaction enter into a covenant running with the land and revocable only by the mutual consent of the local government and the property owner that the divided land shall be used exclusively for agricultural purposes;
 - d) Divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;
 - e) Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
- B. Class IIA - Land divisions not classified as exemptions under Class II:
 - a) Within a platted subdivision filed with the county clerk and recorder, a division of lots that results in an increase in the number of lots or which redesigns or rearranges six or more lots must be reviewed and approved by the governing body, and an amended plat must be filed with the county clerk and recorder;
 - b) A change in use of the land exempted under Class II (c), for anything other than agricultural purposes subjects the division to the

provisions of the subdivision regulations.

A division of land may not be made under Class II or Class IIA unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

3. Class III Exemptions - Subdivisions created solely for rent or leasing purposes shall be exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act and these regulations but must be submitted for review and approval by the Governing Body before portions thereof may be rented or leased.

C. FILING OF EXEMPTED SUBDIVISIONS

1. Land divisions qualifying as Class I Exemptions may be filed with the Clerk and Recorder if all surveying a filing requiriement have been met.
2. Land divisions qualifying as Class II and Class IIA Exemptions shall be reviewed by the following agencies prior to filing with the Clerk and Recorder.
 - a) The Examining Surveyor shall review all Class II and Class IIA Exemptions for compliance with the Montana Subdivision and Platting Act.
 - b) The Department of Environmental Quality shall review all Class II, Class IIA and Class III Exemptions for compliance with State laws related to water supplies, sewage disposal, solid waste disposal and drainage.
3. Land divisions qualifying as Class III Exemptions must be reviewed as subdivisions and approved by the Governing Body prior to renting or leasing any portion of the property.

SECTION 8: SUBDIVISION EXEMPTION DETERMINATION

A. NOTICE TO BE GIVEN BY CLERK AND RECORDER OF CLAIMS FOR SUBDIVISION EXEMPTION

1. As provided in Section 76-3-301(2) of the Montana Subdivision and Platting Act, the Clerk and Recorder shall notify the Subdivision Review Committee, as designated agent of the Governing Body, of any Certificates of Survey submitted for land divisions claiming exemption from subdivision review as stated in Section 7(B)(2) of these regulations.

B. EXAMINATION OF EXEMPTION CLAIM

1. Upon receipt of notice from the Clerk and Recorder, the Subdivision Review Committee shall examine the claim for exemption.
2. Where the Subdivision Review Committee finds that the claim for exemption does not fall within the Criteria for Evasion Determination as set forth in subsection "D" below, the Subdivision Review Committee shall notify the Clerk and Recorder and the Subdivision Administrator that the exemption claim is in proper order.
3. Where the Subdivision Review Committee finds that the claim for exemption falls within the Criteria for Evasion Determination as set forth in subsection "D" below, the Subdivision Review Committee shall notify the subdivider, in writing, of their findings and submit these findings to the Governing Body for consideration at their next regularly scheduled meeting.
4. The Subdivision Review Committee shall notify the subdivider within thirty days of their findings and during the same time notify the subdivider of the time and place of the Governing Bodies next regularly scheduled meeting.

C. DECISION OF GOVERNING BODY

1. The Governing Body shall hold a summary review hearing to examine the findings, submitted by the Subdivision Review Committee, and any other additional evidence that may be submitted by the subdivider or his/her agent to determine if the claim for exemption from the subdivision regulations is being invoked for the purpose of evading the intent of the Subdivision and Platting Act.

- a) Where the Governing Body determines that the claim for exemption

is not being invoked to evade the intent of the Subdivision and Platting Act, the Governing Body shall authorize, in writing, the Clerk and Recorder to file the Certificate of Survey, providing it is otherwise in proper form.

- b) Where the Governing Body determines that the claim for exemption is being invoked to evade the intent of the Subdivision and Platting Act, the Governing Body shall state, in writing, its findings and the land division shall be treated as any other subdivision.

D. CRITERIA FOR EVASION DETERMINATION

1. The Governing Body shall consider and may reject the claim for exemption where it is determined that the proposed exemption does not meet one of the three classifications described in Section 7, Subdivision Exemptions, of these regulations or one of the exemption classifications described in Title 76, Chapter 3, Part 2 (Miscellaneous Exemptions) of the Montana Subdivision and Platting Act.
2. When the governing body rejects a claim for exemption, the subdivider must be notified in writing within ten (10) days of the final decision to reject.

~~a) The claim of exemption for division made outside of platted subdivisions to adjust or relocate common boundary lines between adjoining properties where the claim includes a portion of a platted property or dedicated right of way;~~

~~b) The claim of exemption for divisions made outside of platted subdivisions to convey property exclusively for agricultural purposes where the claim does not include a covenant for the agricultural exemption that is revocable by mutual consent of the subdivider and the Governing Body;~~

~~c) The claim of exemption in a platted subdivision to relocate common property lines between lots or to aggregate lots where the claim creates additional lots or affects more than five (5) lots;~~

~~d) The claim of exemption for divisions made outside platted subdivisions to convey property as a family gift or sale where the claim is a further division of a tract of land previously created as an exemption as a family gift or sale;~~

~~e) The claim of exemption for divisions made outside of a platted subdivision to convey property as an occasional sale where the claim is a third exemption for an occasional sale from a tract.~~

E. APPEAL OF DETERMINATION

1. The determination by the Governing Body to reject a claim for exemption from the subdivision regulations, as provided in Title 76, Chapter 3, Part 2 (Miscellaneous Exemptions) of the Montana Subdivision and Platting Act, may be appealed to the District Court pursuant to the provisions of the Administrative Procedures Act, Section 2-4-601 et. seq. MCA.

SECTION 9: SPECIAL SUBDIVISIONS

A. GENERAL

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design by using cluster development concepts, enhancements of open space and use of natural features, promotion of economics in providing utilities and other services and the harmonious relationship of mixed land uses.

B. PROCEDURES FOR SUBDIVISIONS CREATED BY LEASE OR RENT

1. Subdivision Submittal and Review

- a) Subdivisions created by rent or lease, such as mobile home and recreational vehicle parks, are exempt from the survey and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the Governing Body before portions thereof may be rented or leased.
- b) Subdivisions created by rent or lease shall comply with the appropriate review approval procedures contained in Section 4-D: PRELIMINARY PLAT APPROVAL AND APPROVAL PERIOD for all major subdivisions and Section 6 MINOR SUBDIVISIONS for all minor subdivisions.
- c) Before any portion of a rental or lease subdivision may be rented or leased, the subdivider shall have installed all required improvements or submit a bond subject to approval by the County Attorney, equal to one hundred ten percent (110%) of the engineered cost estimate of the improvements. Where staged or phased development is proposed, improvements for the later phases may be deferred by the Governing Body. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the Governing Body for its approval prior to the construction of improvements. The Governing Body may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.
- d) Recreational Vehicle Parks or Mobile Home Parks shall meet all the requirements of these regulations with the exception that boundaries for the individual mobile home or recreational vehicle

spaces need not be surveyed. The boundaries for the spaces shall, however, be marked on the ground and shown on the Preliminary Plat. If at a later date, the subdivider proposes to sell individual mobile home or recreational vehicle spaces as lots, all surveying requirements for a land subdivision shall be met before any parcel is offered for sale.

- e) In lieu of filing a Final Plat, the subdivider shall submit a plan to the Planning Board conforming to the conditions and requirements of the approved Preliminary Plat to the Planning Board Office. The plan will be reviewed to assure that it conforms to the approved Preliminary Plat. The approved plan shall be maintained in the Planning Board Office.
- f) Where a rental or leased subdivision qualifies as a Minor Subdivision, it may receive summary review as provided for in *Section 6, MINOR SUBDIVISION*, of these regulations.
- g) All subdivision qualifying for review under this section are subject to the review criteria described in Section 4(D)(6).

C. *MOBILE HOME PARK STANDARDS*

1. General

- a) Mobile home parks shall meet the minimum requirements of the Montana Department of Public Health and Human Services as required by Title 50, Chapter 52, MCA, and all regulations adopted pursuant thereto and shall be approved and inspected by the Department of Environmental Quality.
- b) Mobile home parks may utilize the provisions outlined in this section for "Planned Unit Developments," to allow the developer creativity in mobile home park design.
- c) Preliminary Plan submittal shall meet all the requirements as outlined in *Section 4-C: PRELIMINARY PLAT FORM, CONTENTS, AND SUPPLEMENTS*, and the following standards. The plan shall show the lot layout and the typical location of the mobile home, recreational vehicle, or other unit on the lot.

2. Design Standards

a) Streets and Access

- (1) All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Alignments and gradients of streets shall be adopted to the topography. Surfaces of streets shall be paved or graveled and well drained.
- (2) For private roads, the subdivider shall not be required to reserve right-of-way in excess of the roadway width.
- (3) Streets in a mobile home park may be dedicated to public use. Public streets and bridges shall comply with the minimum standards established by the Public Works Department and as described in Section 10(F) and Section 10(G).
- (4) Private streets in mobile home parks shall be of adequate widths to accommodate the contemplated parking and traffic load. As a minimum, moving lanes must be ten (10) feet wide and parallel parking lanes must be eight (8) feet wide.
- (5) Intersections of mobile home park streets with local streets or major arterials or highways shall be kept to a minimum and shall be designed so as to cause the least possible interference with traffic movement.
- (6) No more than two (2) streets may intersect at one point and shall intersect at right angles, except when topography dictates otherwise, and in no case shall the angle of intersection be less than seventy (70) degrees.
- (7) Two streets meeting a third street from opposite sides shall meet at the same point or their centerlines shall be off-set at least one-hundred twenty-five (125) feet.
- (8) Intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds of the individual roadways.
- (9) Culverts or bridges shall be provided by the subdivider where drainage channels intersect any street right-of-way. Where culverts are required, they shall extend at least

across the entire improved width of the street.

- (10) Streets shall be designed to permit safe placement and removal of mobile home units.

b) Lot Size

- (1) Lots or spaces shall meet minimum requirements of the Department of Public Health and Human Services.
- (2) The lot boundaries of each mobile home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable with an engineer's scale and a tape is acceptable. Precise engineering of lot limits is not required on the plans or on the ground.
- (3) The size of the mobile home stand shall be suitable for the general market to be served and shall fit the dimensions of mobile homes anticipated.
- (4) Minimum driveway widths for off-street parking access to each space or lot shall be ten (10) feet.
- (5) The Governing Body may require that mobile home parks located adjacent to industrial or commercial land uses provide screening such as fences or landscaping along the property boundary line separating the park from such use.
- (6) Plantings may be required for buffering, screening, or soil erosion protection, and are subject to approval by the Governing Body. Existing trees and other vegetation shall be preserved where possible. A buffering screen may be required along the perimeters of a mobile home park which abuts a highway arterial or frontage access road and existing residential uses.
- (7) Exposed ground surfaces in all parts of every mobile home space shall be paved, covered with stone or other solid material, or protected with a vegetative cover.

- (8) All mobile homes must be located at least twenty (20) feet from any property boundary line abutting upon a public street or highway right-of-way and at least ten (10) feet from other boundary lines of the park.
- (9) The mobile home pad must be located at least ten (10) feet from the rear property line.
- (10) No detached structure, such as a storage shed, may be located within five (5) feet of any home or its attached structures.
- (11) One guest parking space for each ten (10) mobile home lots must be provided. Group parking may be provided.
- (12) Each mobile home must be skirted within a reasonable amount of time after said mobile home is moved within the mobile home park. Said skirting must be of a fire-resistant material similar to that of which the mobile home exterior is constructed and attached to the mobile home.

c) Water Supply

- (1) All water supply systems shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works Department.
- (2) All water piping, fixtures, and other equipment shall be constructed and maintained in accordance with state and local regulations and codes and shall be of a type and in location approved by the authority having jurisdiction.

d) Sewage Disposal

All sewage disposal systems shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works Department.

e) Solid Waste

The mobile home park developer shall assure that facilities for collection and disposal are available and meet the regulations and minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA and meet the requirements of the Butte-Silver Bow Public Works Department.

f) Electrical Systems

Electrical system installation within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installations shall be designed and constructed in accordance with the applicable provisions of the "National Electrical Code" (NFPA No. 70-1978).

g) Gas System

- (1) Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the authority having jurisdiction. Where the state or other political subdivision does not assume jurisdiction, such installation shall be designed and constructed in accordance with the appropriate provisions of the "National Fuel Gas Code" (NFPA No. 54-1974) and the "Standard for the Storage and Handling of Liquefied Petroleum Gases" (NFPA No. 58-1974).
- (2) A readily identifiable and accessible shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near to the point of connection of the liquefied petroleum gas container.
- (3) Each mobile home lot shall have an accessible, listed gas shutoff valve installed. Such valve shall not be located under a mobile home. Whenever the mobile home outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

h) Fire Protection

Every mobile home park shall be equipped at all times with fire control equipment in good working order of such type, size, and number and so located within the park as prescribed by the local fire authority or to satisfy reasonable fire regulations.

i) Park Land Requirement

Park Land Requirements for mobile home parks shall comply with the provisions of Section 13, Dedication of Public Parks and Open Space, unless otherwise described in Section 7, Subdivision Exemptions. In regards to park land, each space shall be considered one lot.

j) Mail Delivery

If mail delivery will not be made to each individual lot, the mobile home park shall provide an off-street area for mail delivery within the park in cooperation with the United States Post Office.

D. RECREATIONAL VEHICLE PARK STANDARDS

1. General

- a) Recreational vehicle parks shall meet the minimum standards outlined in Section 9, C(1))(a) through (c), for mobile homes parks.

2. Design Standards

- a) Recreational vehicle parks shall conform to the design standards contained in Section 9₂ C(2)(a) through (i), for mobile home parks and the following requirements:
- (1) Recreational vehicle spaces shall be arranged to facilitate placement and removal of vehicles from individual spaces;
 - (2) Accessory facilities shall be designed and located for safe and convenient use by occupants of the park;
 - (3) Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structures, such as attached awnings, shall, for purposes of this separation requirement, be considered part of the recreational vehicle;

- (4) The density shall not exceed 24 recreational vehicle spaces per acre of gross site area;
- (5) All recreational vehicle spaces shall be located at least twenty (20) feet from a public street or highway right-of-way. One-way roads must be at least 15 feet wide.

E. CONDOMINIUMS

1. General Requirements

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act as follows:

- a) Those condominium developments which will be constructed on land divided in compliance with the Montana Subdivision and Platting Act and these regulations will be exempted from further review by the Governing Body.
- b) Those condominium developments which will be constructed on land divided not fully complying with the Montana Subdivision and Platting Act and these regulations will be subject to full subdivision review and approval by the Butte-Silver Bow Planning Board and Governing Body to ensure that all standards and provisions of said regulations are met. These subdivision regulations will not apply to condominium subdivisions recorded prior to July 1, 1974.
- c) Condominium developments shall comply with those standards contained in *Section 10: DESIGN STANDARDS*, and all other standards and regulations which the Governing Body determines to be applicable to the developments.
- d) Condominium developments shall meet the minimum standards of the Montana Department of Environmental Quality, Water Quality Division, adopted pursuant to Title 76, Chapter 4, Part 1, MCA.
- e) Condominiums development shall comply with all provisions of the Unit Ownership Act, Title 70, Chapter 23, MCA, and all regulations adopted pursuant thereto by the Montana Department of Commerce, Business Development Division.
- f) The declaration of regulation of all condominium developments

shall be submitted by the developer to the Governing Body for review to ensure that the land on which they will be located has been divided in full compliance with the Montana Subdivision and Platting Act and these regulations and is properly filed with the Clerk and Recorder.

2. Procedures for Reviewing and Approving Condominium Developments:

- a) The procedure for reviewing and approving condominium developments shall follow the requirements in *Section 3: PREAPPLICATION REVIEW; Section 4: PRELIMINARY PLAT and Section 5: FINAL PLAT.*

F. PLANNED UNIT DEVELOPMENTS

1. General Requirements

The intent of this section is to provide flexibility in certain subdivision standards, allowing the subdivider creativity in subdivision design using a concept which clusters development to promote economies in providing services while preserving and enhancing open space and unique natural features. The Planned Unit Development (PUD) concept promotes the planning of a tract of land to allow for a single use such as residential or for a harmonious combination of uses, such as a mixture of residential, light industrial and commercial.

The submittal of a Planned Unit Development shall meet the following standards as outlined except as provided by Ordinance Numbers 53 and 338, the Butte-Silver Bow Zoning Ordinance.

- a) A written request that the plan of the proposed subdivision is to be reviewed as a PUD.
- b) The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety.
- c) Each residential Planned Unit Development shall provide open space as per the following:
 - a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

- b) 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
- c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
- d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres;

Such area may be developed to provide either active or passive recreation:

- (1) Held in common ownership by the owner(s) in the development area;
- (2) Dedicated to public use, if applicable by the Governing Body;
- (3) or a combination of (1) or (2) above.

The Governing Body may waive dedication and cash donation requirements when the subdivider agrees to create a property owners' association for the proposed subdivision and deed to the association, land to be held in perpetuity for uses as parks or playgrounds.

- d) To obtain designation of a subdivision as a PUD, the subdivider must provide the information as outlined in item (5) below with the submittal of a Preliminary Plat.
- e) The Preliminary Plat shall follow all the requirements in *Section 4: PRELIMINARY PLAT – MAJOR SUBDIVISION*, plus the following:
 - (1) A plan of the proposed subdivision showing the various uses and development planned;
 - (2) A description of open space, recreational facilities, roads and other facilities proposed to be under common ownership;
 - (3) A description of proposed restrictive covenants, if any;

- (4) Proposed type(s) of ownerships upon completion of development;
 - (5) A statement on how provisions will be established to assure permanence and maintenance of common open space;
 - (6) In the case where a plan which calls for development time of 18 months or more for street and utility improvements, a schedule showing the time when such improvements will be completed shall be provided;
 - (7) A description of all proposed modifications.
- f) The Planning Board shall review the plan and within ten (10) days of the Planning Board Meeting, write a letter to the subdivider stating that the plan has or has not been designated a PUD. If designation as a PUD is disapproved, the reasons for disapproval shall be stated in the letter. Designation as a PUD does not constitute approval of the specific details or modifications proposed by the plan. In areas where no zoning exists, the board shall determine, in consultation with the subdivider and in accordance with the Growth Policy, the overall dwelling unit density.

The Planning Board shall determine that the development promoted the clustering of individual building sites, conforms to the definition and intent of this section and shall determine that one (1) or more of the following conditions are present:

- (1) The design of the subdivision should preserve to the maximum extent possible the natural characteristics of the land; including topography, vegetation, streams and other bodies of water;
- (2) The design of the subdivision provides economies in the provision of roads and public improvements;
- (3) The subdivision preserves productive agricultural land;
- (4) The subdivision protects important historic sites or structures or areas of important wildlife habitat;
- (5) The subdivision provides facilities for recreational purposes.

- g) Planning Unit Developments proposing to create five (5) or fewer lots shall be subject to the review criteria and procedures established for a minor subdivision as described in Section 6.
- h) Planning Unit Developments proposing to create six (6) lots or more shall be subject to the review criteria and procedures established for a major subdivision as described in Sections 4 and 5.

G. CLUSTER DEVELOPMENTS

1. General Requirements

The intent of this section is to allow a subdivider to cluster lots within a subdivision in a group of five or more lots in order to reduce capital maintenance cost for infrastructure through the use of concentrated public or private services and utilities, while allowing other lands to remain open space.

Regardless of lot size, each lot created must meet the requirements of the Montana Department of Environmental Quality and the Butte-Silver Bow Health Department.

- A. Riparian Corridors (Big Hole River, Silver Bow Creek), Growth Policy Areas: Cluster Developments shall not be allowed within the Big Hole River and Silver Bow Creek riparian corridors as defined within the Growth Policy, unless the proposed cluster development preserves the river or creek riparian corridor as defined by the Growth Policy as open space to be contained within the required conservation easement area as described within Section.
- B. Maximum number of parcels allowed in a cluster development shall be no greater than twice the number of lots allowed by the guiding land use document for the property in question, with the limitation that at no time will the cluster development be allowed to occupy more than seventy-five percent (75%) of the total land area.
- C. A minimum of twenty-five percent (25%) of the total land area must be designated as open space through an irrevocable conservation easement, granted in perpetuity, as provided for in MCA, Title 76, Chapter 6, prohibiting further division of the parcel.

- D. Cluster Developments meeting the requirements of this section are exempt from the requirements of Section 16, Environmental Assessment.
- E. Cluster Developments meeting the requirements of this section are exempt from the requirements of Section 13, Dedication of Public Parks and Open Space.
- F. Except as provided in this section, the all other applicable provisions for minor (as per Section 6) and major subdivisions (as per Sections 4 and 5) apply to cluster developments, including compliance with the review criteria described by Section 4(6).

SECTION 10: DESIGN STANDARDS

In laying out a subdivision, the developer shall comply with the following general principles and standards.

A. GENERAL STANDARDS

The design and development of subdivisions shall preserve the natural terrain, natural drainage, existing topsoil, trees and natural vegetation to the extent possible.

B. LANDS UNSUITABLE FOR SUBDIVISION

These are lands identified in the Growth Policy or which the Planning Board has found to be unsuitable for subdivision because of potential hazards such as flooding, snow avalanches, rock falls, landslides, steep slopes with excessive grades, high potential for wildfire, subsidence, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, air or vehicular traffic hazards or congestion, or severe toxic or hazardous waste exposure; or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation; or other features which may be detrimental to the health, safety or general welfare of existing or future residents. Developers shall be advised not to subdivide for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction plans.

C. FLOODWAY PROVISIONS

1. Land located in the floodway of a flood of one hundred year frequency as defined by Title 76, Chapter 5, The Montana Floodway Management Act, or land deemed subject to flooding as determined by the Governing Body shall not be developed for building purposes, or other uses that may increase or aggravate flood hazards to life, health or property. Only land uses not involving permanent buildings, such as park or playground areas or camping sites, may be located in areas subject to flooding. Development shall be carried out in accordance with the Act and all regulations adopted pursuant thereto.
2. If any portion of a proposed subdivision is within 2000 horizontal feet and less than 20 vertical feet of a live stream draining in an area of 25 square miles or more, and no official floodway delineation or floodway studies of the stream have been made, the subdivider shall furnish survey data as required by the Montana Requirement for Flood Hazard Evaluations (ARM Title 16, Chapter 16) as contained in Section 4 of these regulations. The floodway will be determined by the Water Resources Division, Montana

Department of Natural Resources and Conservation, and that agency will certify in writing that available data indicates whether or not the proposed subdivision is in a flood hazard area.

D. EXCESSIVE SLOPE AND SOIL LIMITATIONS

For subdivisions which may encounter problems due to excessive slope or soil or groundwater limitations, the Governing Body may require the subdivider to submit evidence that no detrimental effects will occur or that special design will eliminate any potential problems.

E. IMPROVEMENT DESIGN

Engineering plans, specifications, and reports required in conjunction with public improvements and other elements of the subdivision required by the Governing Body, shall be prepared by a Registered Land Surveyor or a Professional Licensed Engineer as their respective licensing laws allow, in accordance with the Montana Subdivision and Platting Act and these regulations.

F. BRIDGES AND CULVERTS

1. Culverts or bridges shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity shall be determined by a qualified engineer. This shall include arrangements for driveway culverts.
2. Where it is deemed by the Planning Board or Governing Body that construction of bridges is necessary, the bridges shall conform with the following minimum standards:

RURAL	NEW BRIDGES		
	<u>Arterial</u>	<u>Collector</u>	<u>Local</u>
Width (curb-to-curb)	34 ft.	28 ft.	24 ft.
Design Load (AASHO)	H-20	H-20	H-15
Vertical Clearance	14.5 ft.	14.5 ft.	14.5 ft.
URBAN & SUBURBAN	NEW BRIDGES		

	<u>Arterial</u>	<u>Collector</u>	<u>Local</u>
Width (curb-to-curb)	48 ft.	44 ft.	36 ft.
Vertical Clearance	14.5 ft.	14.5 ft.	14.5 ft.

G. STREETS AND ROADS

1. Street right-of-way widths shall be as per the specifications of the Public Works Department and, shall not be less than as shown in *TABLE 1*.
2. All roadway improvements including pavement, curbs, sidewalks, and drainage shall be constructed in accordance with the specifications and standards prescribed in *TABLES 1* and *2* of these regulations unless alternative plans submitted by the developer specify equal to superior solutions as approved by the Governing Body.
3. The arrangement, character, extent, width, grade, and location of all streets shall conform to the Growth Policy and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
4. Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening or soil erosion and are subject to approval by the Governing Body.
5. Where the Growth Policy does not show such characteristics of the streets, said streets shall conform to one of the following situations:
 - a) Said streets shall provide for the continuation or extension of existing arterial or collector streets in surrounding areas;
 - b) Said streets shall conform to a plan for the neighborhood which has been approved by the Governing Body in order to meet a particular instance where topographical or other conditions preclude continuance of or conformance with existing street patterns.
6. The layout of local streets shall be so arranged that use of said streets for purposes of through movement of traffic will be discouraged.
7. Collector streets shall be so located that said streets afford smooth traffic

flow from local streets to arterial streets.

8. Where a subdivision abuts or contains an existing or proposed arterial street, the Governing Body may recommend local streets, reverse frontage with screen plantings contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be deemed necessary for adequate protection of residential properties and to afford separation of through and local traffic.
9. The use of hammerhead turn arounds shall not be permitted.
10. Controlling access to streets through employment of reserve strips shall be prohibited except where control of such strips is definitely placed with the City and County under conditions specified by the Governing Body.
11. Streets which are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide. In cases where straight continuations are not physically possible, such centerlines shall be continued by a centerline offset of not less than one hundred twenty-five (125) feet.
12. Streets with curves shall incorporate appropriate tangents where necessary as determined by the Governing Body in consultation with a professional engineer.
13. When continuing street lines deflect from each other at any one point by more than five (5) degrees, they shall be connected by a curve with a radius adequate to ensure stopping sight distance at the centerline of the street of not less than two hundred (200) feet for local streets and three hundred (300) feet for collector streets, and of such greater radii as the Governing Body shall determine for arterial streets and special cases.
14. Local streets shall be laid out so as to intersect as nearly as possible at right angles and no local street shall intersect any other local street at an angle of less than eighty (80) degrees. Such angle of 80 degrees or greater shall be retained for at least one hundred (100) feet back from the intersection. Any street intersection involving arterial and/or collector streets shall intersect at ninety (90) degrees and such angle of 90 degrees shall be retained for at least one hundred (100) feet back from the intersection and shall provide a minimum of 300 feet sight distance. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Governing Body.

15. Hilltop intersections are prohibited, except where no alternatives exist. Intersections on local roads within 100 feet of a hilltop are prohibited. Intersections on arterial and collector roads within 200 feet of a hilltop are prohibited.
16. Lot corners at all street intersections shall be rounded with a radius of twenty (20) feet or of a greater radius where the Governing Body deems it necessary in order to promote the objectives of these regulations.
17. Half streets are prohibited except where essential to the development of the subdivision and where the Governing Body is assured that it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
18. Dead-end streets over five hundred feet (500') in length are prohibited. Dead-end streets under five hundred feet (500') in length shall have a cul-de-sac with a minimum of a forty-five foot (45') radius. Where a future street extension is proposed, a temporary cul-de-sac shall be provided with a minimum radius of forty-five feet (45'). Streets over five hundred feet (500') in length shall be looped to a public road, or a state or federal right-of-way.
19. Names of new streets aligned with existing streets shall be the same as those of the existing streets. Street names for noncontinuing streets shall not be duplicated or be confused with existing street names. Street name signs shall be provided and placed by the subdivider as specified by the Governing Body at all street intersections.
20. Residential driveways shall not have direct access to arterials and major highways.
21. Private Roads shall be maintained by an individual property owner(s) or by a property owners' association. Each plat and instrument of conveyance shall contain the following statement: "The purchaser and/or owner of this lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligations of the owner or homeowners' association and that the consolidated City and County of Butte-Silver Bow, State of Montana, is in no way obligated until the roads are brought up to standards adopted by the Planning Board and Council of Commissioners and dedicated to public use."

22. Streets and roads for Commercial and Industrial Subdivisions:

- a) Streets for Commercial Subdivisions - Streets serving business developments and accessory parking areas shall be planned to connect with arterial streets so as not to generate traffic on local streets. Intersections of driveways from parking areas with arterials for collector streets shall be designed to cause the least possible interference with traffic movement on streets and shall be located not less than one hundred twenty-five (125) feet from the intersection of an arterial or collector street with any other street. Spacing between driveways shall be at least two hundred (200) feet. The Governing Body may require marginal access streets to provide maximum safety and convenience.
- b) Streets for Industrial Subdivisions - Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall not connect to local, residential, or collector streets. The intersections of service streets from parking areas with arterial or collector streets shall be at least one hundred twenty-five (125) feet apart. Where a proposed street intersects a State Highway, the street must conform to the current "Approach Standards for Montana Highways" regulations as set forth by the Montana Department of Transportation.

TABLE 1

URBAN							
STREET TYPE	MIN. ROW	LANE WIDTH	PARK WIDTH	ROADWAY WIDTH	PAVEMENT WIDTH	MEDIAN WIDTH	B-B CURB WIDTH
MINOR ARTERIAL							
2 Lane Plus Parking	80 FT	14 FT	10 FT	48 FT	45 FT		49 FT
4 Lane/No Parking	80 FT	11 FT		48 FT	45 FT		49 FT
4 Lane Plus Median	80 FT	11 FT		61 FT	48 FT	16 FT	62 FT
COLLECTOR							
2 Lane Plus Parking	60 FT	12 FT	10 FT	44 FT	41 FT		45 FT
4 Lane/No Parking	60 FT	10 FT		44 FT	41 FT		45 FT
LOCAL							
Residential	51 FT	10 FT	8 FT	36 FT	33 FT		37 FT

SUBURBAN/RURAL					
STREET TYPE	MIN. ROW	LANE WIDTH	SHOULDER WIDTH	ROADWAY WIDTH	PAVEMENT WIDTH
ARTERIAL	80 FT	14 FT	10 FT	40 FT	36 FT
COLLECTOR	60 FT	12 FT	10 FT	30 FT	26 FT
LOCAL I Serving Lots Up to 2 Acres	60 FT	12 FT	10 FT	28 FT	24 FT
LOCAL II Serving Lots Over 2 Lots	60 FT	12 FT	10 FT	28 FT	24 FT (Gravel may be used in lieu of paving.)
CUL-DE-SACS					
RADIUS			LENGTH		
40FT 45FT MINIMUM			500 FT MAXIMUM (To nearest street intersection.)		

23. Street grades shall not exceed the following with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following minimum speeds, as shown in *TABLE 2*, unless otherwise signed for a lesser speed.

TABLE 2

	URBAN/SUBURBAN			RURAL		
	ARTERIAL	COLLECTOR	LOCAL	ARTERIAL	COLLECTOR	LOCAL
MAXIMUM GRADE Flat & Rolling	7%	8%	9%	6%	7%	9%
Hilly	9%	10%	11%	8%	9%	11%
DESIGN SPEED OF ROAD Flat & Rolling	40 MPH	30 MPH	20 MPH	60 MPH	40 MPH	30 MPH
Hilly	40 MPH	30 MPH	20 MPH	50 MPH	30 MPH	20 MPH
MINIMUM STOPPING SIGHT DISTANCE	375 FT	200 FT	150 FT	475 FT	350 FT	150 FT
CURVATURE Maximum Curve	10°	19°	53°	10°	19°	53.5°
MAXIMUM RADIUS	561 FT	300 FT	120 FT	561 FT	300 FT	120 FT

H. ALLEYS

1. In commercial and industrial districts, alleys may be provided except in cases where the Governing Body waives such requirements. If such waiver is granted, definite provisions must be made for service access, i.e., off-street loading, unloading and parking. Said provisions must be consistent with and adequate for the proposed uses.
2. The minimum width of an alley in commercial and industrial districts shall be at least twenty (20) feet.
3. Alleys in residential subdivisions shall be consistent with adjacent subdivisions or additions. In which case, the minimum width shall be at least sixteen (16) feet. For residential developments in suburban and rural areas, alleys shall be discouraged unless consistent with the adjacent development.
4. Intersection and sharp alignment changes in alleys shall be avoided.
5. Dead-end alleys shall be avoided. However, if such alley is necessary, it shall be provided with adequate access and turnaround space as prescribed by the Governing Body.

I. EASEMENTS

1. Easements shall be provided for utilities, irrigation districts, drainage and vehicular or pedestrian access. Easements, other than vehicular easements, shall be centered along rear and side lot lines where practical and shall be at least ten (10) feet in width. Vehicular easements may be located anywhere on the property and shall be at least twenty (20) feet in width and comply with the provisions of Section 10(G)(21). Easements requiring maintenance shall be given special consideration.
2. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, whether natural or relocated, there shall be provided a storm water easement and/or sewer drainage right-of-way which conforms substantially with the one of such watercourse, and such further width as will be adequate for the purpose. Provisions of parallel streets or parkways for the watercourse may also be required.
3. In addition to showing the location of the utility easements on the Final Plat with dashed lines, the following statement shall be on the Final Plat:

"The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area dedicated on this Plat and 'Utility Easement' to have and to hold forever."

4. The subdivider shall be required to establish easements for irrigation water ways for lots 1 acre or larger when the land or owners are legally entitled to the water under an appropriated water right or permit. The subdivider shall also be required to file and record ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines and facilities in the subdivision.

J. BLOCKS

1. The lengths, widths, and shapes of blocks shall be designed with due regard for:
 - a) provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - b) applicable zoning requirements as to lot sizes and dimensions;
 - c) needs for convenient access, circulation, control, and safety of street traffic.
2. Blocks shall be wide enough to allow for two tiers of lots unless the topography or other factors dictate otherwise or the Governing Body approves the design of irregularly shaped blocks indented by cul-de-sacs.
3. Block lengths shall not exceed sixteen hundred (1600) feet or be less than five hundred (500) feet.
4. All blocks shall be identified with, numbers, letters or arabic numerals.

K. LOTS

1. The lot size, depth, shape and orientation and the setback lines shall be appropriate for the location of the subdivision, for the type of development use contemplated, and for underlying existing zone classification or Growth

Policy District.

2. Residential lots, except mobile home or recreational vehicle parks shall have a minimum lot frontage of sixty (60) feet and a minimum lot area of six thousand (6,000) square feet or as otherwise specified in the Butte-Silver Bow Municipal Code, Title 17, Zoning or by within the Growth Policy.
 - a) Lots abutting cul-de-sacs - Because the utility of the entire area of lots abutting a cul-de-sac is decreased due to the irregularity of its shape, the following minimum standards shall be met:

Lots which abut on a cul-de-sac shall have a minimum lot width of sixty (60) feet measured across at the building setback line.
 - b) Mobile home or recreational vehicle lots shall conform to the Design Standards, Section 9-C: Mobile Home Park Standards and D: Recreational Vehicle Park Standards.
3. Lots in commercial zones shall have a minimum lot width as specified in the commercial zoning districts of the Butte-Silver Bow Municipal Code.
4. Residential lots, where not served by public sewer and/or public water, shall comply with the regulations of the Montana Department of Environmental Quality as follows:
 - a) When either an individual water supply system or an individual sewage system is proposed and the other service is proposed to be provided by an approved public water or sewage system, the minimum lot size shall be 20,000 square feet of area provided that the applicant demonstrates that the subdivision will not result in violation of the water quality act, Title 75, Chapter 5, MCA, and the applicant or representative provides information from qualified professional consultants indicating no sanitary problems will occur (ARM 16.16.301). All subdivisions falling under this definition shall have a minimum width of one hundred (100) feet.
 - b) In cases where residential lots have neither public water service nor public sewer service, minimum dimensions shall be one hundred fifty (150) feet in width and one (1) acre in area.
5. Nothing in these subdivision regulations shall be construed as preventing the Montana Department of Environmental Quality or the Butte-Silver Bow

Health Department, after studying the existing conditions, from requiring that all or any portion of such subdivision shall not be built or that the minimum lot sizes set forth in these regulations are inadequate and must be increased to ensure the protection of the public health.

6. Each lot shall front or abut on a street which is to be dedicated to the public and conform to the requirements of these regulations. Lots not having frontage on a public street shall be provided access by an easement or private street approved by the Governing Body. Alleys may not be used to provide the primary means of access to a lot.
7. No single lot shall be divided by a public street, road, alley or right-of-way. Lots divided by easements shall be reviewed on a case-by-case basis as to their acceptability by the Governing Body.
8. Corner lots shall:
 - a) Have driveway access to the same street or road as interior lots;
 - b) Encompass a larger area to permit appropriate building setbacks from an orientation to both streets;
 - c) Shall be of sufficient area to provide acceptable visibility for traffic safety.
9. Except where essential to separate residential development from traffic arteries, or to overcome specific topographic or orientation disadvantages, double frontage, reverse frontage, and reverse corner lots should be avoided. Where lots abut said traffic arteries, or other disadvantageous uses, a planting screen of a minimum width of ten (10) feet shall be provided along such lines of abutment and shall allow no right of access.
10. Lines of side lots shall be substantially at right angles or radial to curved street or road lines.

SECTION 11: REQUIRED IMPROVEMENTS

A. GENERAL

The following improvements may be required in all new subdivisions reviewed by the Governing Body. The method by which the following improvements will be installed shall be acceptable to the Governing Body and in conformance with plans and specifications prepared.

B. STREETS

The following minimum standards shall be observed when the Governing Body determines that the subdivider shall install streets:

1. Grading: All streets and alleys within the subdivision shall be excavated or filled to three-tenths (0.3) of a foot (plus or minus) of the grade established by the Department of Public Works.
2. Subgrades: Roadway subgrades shall be free of sod, vegetation or other organic matter, soft clay or other objectionable materials subject to the approval of the Department of Public Works.
3. Base: The type of base required will vary with the nature of the existing soil types and materials and with the particular type of traffic to be accommodated. The base shall be as specified by the Department of Public Works.
4. Street Surfacing: Street surfaces shall be paved for all subdivisions with net lot area of two (2) acres or less. Subdivisions with net lot areas greater than two (2) acres shall require gravel surfaces. All surfaces shall be specified by the Department of Public Works.

C. SIDEWALKS

1. If it is determined by the Governing Body that sidewalks are required, such sidewalks shall be constructed to width and type specifications determined by the Department of Public Works.
2. All sidewalks shall have a minimum width of five (5) feet.
3. Handicap wheelchair ramps shall be installed at all intersections as specified and approved by the Department of Public Works.

D. CURBS

Integral curbs and gutters shall be constructed in accordance with the specifications of the Department of Public Works and where required shall be installed on both sides of the street.

E. SANITARY SEWERS

1. Sewage Disposal

- a) All subdivisions shall be provided with or connect to adequate sewage disposal systems which meet the minimum standards of the Montana State Department of Environmental Quality and where necessary are approved by the Governing Body, the Butte-Silver Bow Metropolitan Sewer District.
- b) Where the subdivision is within the service area of a public sanitary sewer system, the subdivider must install complete sanitary sewer facilities in accordance with the requirements of the jurisdiction involved and the Montana Department of Environmental Quality. The subdivider must submit plans and specifications for the proposed facilities to the jurisdiction involved and to the Montana Department of Environmental Quality, and must obtain their approvals prior to undertaking any construction.
- c) If the subdivision is within 1500 feet of an existing public system, and the system can absorb the additional load, the subdivider may be required to make application to the sewer district involved for inclusion in the service area and install sanitary sewer system facilities as required.
- d) Where lots cannot be served by existing public systems, the Governing Body may require that a central sewage system be installed.
- e) Where lots cannot be served by the extension of an existing public sanitary sewer system, the subdivider shall obtain approval of lot sizes for individual septic tanks and disposal field from the State Department of Environmental Quality. All appropriate data and comments from local health officers must accompany the request for approval.

2. Solid Waste

The subdivider shall assure that provisions for the collection and disposal of solid waste are available and meet the regulations and minimum standards of the Montana Department of Environmental Quality, adopted pursuant to Title 76, Chapter 4, Part 1. The means of solid waste collection and disposal must be subject to approval of the Governing Body.

F. WATER SUPPLY SYSTEM

1. All subdivisions shall be provided with or connect to adequate water disposal systems which meet the minimum standards of the Montana State Department of Environmental Quality and where necessary are approved by the Governing Body. Responsibility for maintenance may be included as part of the public improvements agreement.
2. If the subdivision is within 1500 feet of an existing public system, and the system can absorb the additional load, the subdivider may be required to make application to the district involved for inclusion in the service area and install a complete water distribution system.
3. Where lots cannot be served by existing public systems, the Montana State Department of Environmental Quality may require that a central water supply system be installed.
4. Where lots cannot be served by the extension of existing water supply systems, the subdivider shall obtain approval for an alternative water supply system and lot sizes for such proposals from the State Department of Environmental Quality.
5. Fire hydrants and size of waterlines shall be installed within the subdivision in conformance with specifications of the Department of Public Works, the Butte-Silver Bow Fire Department, and the recommendations of the Board of Fire Insurance Underwriters.

G. STORM DRAINAGE

1. Adequate provisions for storm water drainage shall be provided in accordance with standards specified by the Department of Public Works and the Montana Department of Environmental Quality. In cases where drainage from the project creates impacts on upstream or downstream systems, the Governing Body may require off-site improvements to mitigate these problems.

H. TRAFFIC CONTROL DEVICES

1. Street name signs shall be placed at all street intersections according to the specifications of the Department of Public Works.
2. All traffic control devices which the Governing Body may deem necessary, shall be installed according to the specifications of the Department of Public Works.

I. UTILITIES

1. Utilities, including electricity, cable television, and telephone shall be placed underground wherever practical, excepting fire hydrants, cable closures, alignment markers, etc. Underground utilities, if placed in the street right-of-way, shall be located between the roadway and the right-of-way line to simplify location and repair of lines. Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate, so far as practicable, the necessity for disturbing such surfacing for the connection of individual services. Overhead utility lines shall be located at the rear property line where practical. Utility facilities including street lights, shall be designed by utility firms in cooperation with the subdivider subject, however, to all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities.

J. MAIL DELIVERY

1. The Planning Department shall provide addresses for each proposed lot after the final plat is filed with the Clerk and Recorder's Office. All Addresses shall be in compliance with the Locatable Address Ordinance 10.52.
2. Where mail delivery will not be provided to each individual lot, an off-street mail receptacle shall be provided by the subdivider as approved by the United States Postal Service.

K. FIRE PROTECTION

1. All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Efforts should be made to address the following:

- a) The placement of structures in such a manner so as to minimize the potential for flame spread and to permit efficient access for fire fighting equipment;
 - b) The presence of adequate fire fighting facilities on site;
 - c) An adequate water supply and water distribution system to fight fires on-site;
 - d) The availability, through a fire protection district or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.
 - e) The clearing of brush, dead trees, fallen branches and other flammable debris or material on the ground for a distance of one hundred (100) feet from the perimeter of all structures.
2. If any of the above items cannot be addressed, the following language shall be included in the purchaser's agreement and on the face of the final plat: "Some elements relating to fire protection on the property have not been addressed and the seller and the buyer hold Butte-Silver Bow harmless for any losses due to the lack of fire protection."

L. SPECIAL STANDARDS FOR SUBDIVISIONS PROPOSED IN AREA OF HIGH FIRE HAZARD

High fire hazard areas include heads of draws, excessive slopes, dense forest growth or other hazardous wildfire components. For subdivisions proposed in areas subject to high wildfire hazard as determined by the U.S. Forest Service or the Forestry Division of the Montana Department of Lands, efforts should be made to address the following:

- 1. At least two entrance-exit roads should be provided to assure more than one escape route for residents and access routes by fire fighting equipment.
- 2. Road right-of-way should be cleared of slash.
- 3. Bridges should be built to a design load of 20 tons and constructed of non-flammable materials.
- 4. Building sites should not be located on slopes greater than 25 percent and at the apex of "fire chimneys" (topographic features, usually drainways or swales, which tend to funnel or otherwise concentrate fire toward the top of

steep slopes).

5. Densities in areas of steep slope or dense forest growth should be reduced through minimum lot standards as follows:

Minimum Lot Size (Acres)			
Percent Slope Brush	Open Grass	Forest	&
0 - 10	1	2	
10-20	2	3	
20-25	3	4	
over 25	5	not	
		permitted	

6. Open space, parkland and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.
7. A water supply of sufficient volume for effective fire control should be provided in accordance with standards set by the appropriate local fire protection authority. In absence of such standards, a water supply of sufficient volume for effective fire control should at a minimum be provided as follows:
 - a) A minimum of 500 gallons per minute for lots of one acre or larger;
 - b) A minimum of 750 gallons per minute for lots of less than one acre.

Lots with independent water supply (separate well and pump) should provide for adequate storage and supply in cisterns, swimming pools, tanks, etc., with a minimum capacity of 500 gallons per dwelling unit at appropriate locations.

8. On residences with roofs constructed of shakes, the shakes should either be constructed of artificial materials or approved treated natural shakes.
9. Gas storage tanks should be located at least twenty (20) feet from residential structures.

If any of the above items cannot be addressed, the following language shall be included in the purchaser's agreement and on the face of the final plat: "Some elements relating to standards for subdivisions proposed in areas of high fire hazard have not been addressed and the seller and buyer hold Butte-Silver Bow harmless for any losses due to a lack of fire protection in high fire hazard areas."

M. *DRAINAGE FACILITIES*

1. The drainage system and facilities required for any run-off affecting the subdivision is subject to approval by the Governing Body. Subdivisions containing lots less than 20 acres in size also must meet the minimum drainage standards of the Montana Department of Environmental Quality.
2. Curbs and gutters or swales may be required as determined by the Governing Body according to the character of the area (rural or urban), density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties must be extended according to current specifications of local and state authorities.
3. Culverts or bridges of adequate size must be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. All culverts must extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and culvert's capacity must be determined by a registered engineer. This must include arrangements for driveway culverts.
4. The subdivider must provide suitable drainage facilities for any surface run-off affecting the subdivision; these facilities must be located in street right-of-way or in perpetual easements of appropriate widths and are subject to approval by the Governing Body.
5. Each culvert or other drainage facility must be large enough to accommodate potential run-off from upstream drainage areas.
6. Drainage systems must not discharge into any sanitary sewer facility.
7. The grading and drainage system must be designed and certified by a licensed professional engineer.
8. The Governing Body may require the subdivider to grant easements to prevent encroachment or disruption of drainageways or facilities. Drainage easements must be drawn on the plat and a signed statement granting the easements must appear on the plat.

N. WEED CONTROL

1. Developers shall be responsible for weed control within all subdivisions. At the time the preliminary subdivision plat is submitted to the Planning Department, the Department shall notify the Weed Control Supervisor. The County Weed Control Supervisor shall be available to assist the developer with specifications on weed control measures to be implemented and with the preparation of a weed control plan. An acceptable weed control plan shall be submitted to the Weed Control Supervisor for review and approval prior to filing the final plat with the Clerk and Recorder.
2. The applicant will be required to submit a bond in the amount of money necessary to implement the weed control plan as determined by the Weed Control Supervisor.

O. COMPLETION OF IMPROVEMENTS

1. The governing body may require the subdivider to design the subdivision to reasonably minimize potential significant adverse impacts identified through the review required by Section 4(D)(6). The governing body shall issue a written findings to justify the reasonable mitigation required.
2. When requiring mitigation under Section O(1), the governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
- ~~13.~~ 13. The subdivider shall provide or cause to be provided financial surety to the Governing Body and the Department of Public Works to guarantee the completion of minimum improvements in accordance with the specifications of these regulations. The Governing Body shall reduce bond requirements commensurate with the completion of improvements.
 - a) In lieu of requiring a bond or other means of security for the construction or installation of all the required public improvements under Section 11, (O) (1), the governing body may approve an incremental payment or guarantee plan. The improvements in a prior increment must be completed or the payment or guarantee of payment for the costs of the improvements incurred in a prior increment must be satisfied before development of future increments.
 - b) Approval by the Governing Body of a final plat prior to the

completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body.

4. The subdivider shall include a time schedule describing the plans to complete all required improvements. All improvements must be installed within two (2) years from the date of Final Plat approval and/or at such time when transfer of title has been made on fifty percent (50%) of the lots within the subdivision.
5. Failure to complete the installation of required improvements, as provided for in these regulations, may result in the withdrawal of the approval of the subdivision and/or in the Governing Body foreclosing on the bond submitted for the public improvements and using that money to complete the installation of the required public improvements.

SECTION 12: GUARANTEE OF PUBLIC IMPROVEMENTS

A. SUBDIVISION IMPROVEMENT AGREEMENT

As a condition for approval of the Final Plat, the subdivider shall have installed all of the required improvements as stipulated in *Section 10: DESIGN STANDARDS* and *Section 11: REQUIRED IMPROVEMENTS* or shall enter into a written subdivision improvements agreement approved by the County Attorney guaranteeing the construction and installation of all required improvements in conformance with all policies, standards, and resolutions adopted by the Governing Body. The agreement shall stipulate which type of security arrangements the subdivider elects to use and the time schedule the subdivider proposes to accomplish the required improvements and shall include the subdivider's warranty against defects of these improvements for a period of one year from the date of their written acceptance by the Governing Body.

B. SECURITY GUARANTEE

The governing body shall at the subdivider's option allow the subdivider to provide a financial security guarantee from the following listed methods in the amount of 100% of the estimated total cost, as approved by the Governing Body, of installing all required improvements.

1. Escrow Account

The subdivider shall deposit cash or collateral readily convertible to cash at face value, either with the Governing Body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank with which funds are to be deposited, are subject to the approval of the Governing Body. Where an escrow account is to be employed, the subdivider shall file with the Governing Body his agreement with the bank guaranteeing the following:

- a) That the funds in the escrow account are to be held in trust until released by the Governing Body and may not be used or pledged by the subdivider as security for any obligation during that period.
- b) And that in case the subdivider fails to complete the required improvements, the bank shall immediately make the funds in escrow available to the Consolidated City and County of Butte-Silver Bow for the completion of these improvements.
- c) The subdivider shall also provide account statements to the Governing Body or its designated agent periodically as specified by

the Governing Body.

2. Reserved.
3. Sequential Development

Where a subdivision is to be developed in phased portions, the Governing Body may waive the guarantee of improvements for those portions of the subdivision proposed to be developed at a later time. In such cases, the Governing Body shall grant Final Plat approval to only one portion at a time. Final Plat approval for each succeeding portion shall be contingent upon the completion of all contracted improvements in each preceding portion and acceptance of those improvements by the Governing Body. Completion of improvements for each phase must be guaranteed through the use of one of the methods outlined in these regulations.

4. Special Improvement District

The Governing Body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special district created pursuant to Title 76, Chapter 12, MCA. The agreement shall provide that the improvement district will be created prior to the sale, lease or rental of any lots created within the subdivision and shall establish a time frame for the initiation and completion of all required improvements.

An agreement to finance improvements through the creation of a special improvement district constitutes a waiver by the subdivider or the owners of the property where other than the subdivider, of the right to protest or petition against, the creation of the district under Section 7-12-2109, MCA.

5. Letter of Credit

Subject to the approval of the Governing Body, the subdivider shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be deposited with the Governing Body and shall certify the following:

- a) That the creditor guarantees funds in an amount equal to the cost, as estimated by the subdivider and approved by the Governing Body, of completing all required improvements;

- b) That if the subdivider or creditor fails to complete the specified improvements within the required period, the creditor will pay to the Consolidated City and County of Butte-Silver Bow immediately with no further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;
- c) That this letter of credit may not be withdrawn, or reduced in amount, until released by the Governing Body.

6. Surety Performance Bond

The bond shall be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the Governing Body and countersigned by a Montana agent. The bond shall be payable to the Consolidated City and County of Butte-Silver Bow, State of Montana. The bond shall be in effect until completed improvements are accepted by the Governing Body.

7. Any other method that may be acceptable to the Governing Body.

C. TIME LIMITS

Prior to Final Plat approval, the subdivider and the Governing Body shall agree upon a deadline for the completion of all required improvements, such deadline not to exceed two (2) years from the date of Final Plat approval or when fifty percent (50%) of the lots have been sold. The Governing Body may extend that deadline for one (1) additional year if the subdivider presents substantial reason for the extension.

D. INSPECTION AND CERTIFICATION

- 1. Upon completion of required improvements, the subdivider shall file with the Governing Body a statement certifying that:
 - a) All required improvements are complete;
 - b) These improvements are in compliance with the minimum standards specified by the Governing Body for their construction;
 - c) A certificate by the Licensed Professional Engineer (PE) responsible for preparing the improvement plans that all improvements have been installed in conformance with the specifications and that the PE provide engineering oversight during

the construction process;

- d) The subdivider knows of no defect in those improvements;
- e) These improvements are free and clear of any encumbrances of liens;
- f) A schedule of actual construction costs has been filed with the Governing Body;
- g) All applicable fees and surcharges have been paid.

E. RELEASE OF SUBDIVISION AGREEMENT

1. The Governing Body may provide for inspection of all required improvements by a Licensed Professional Engineer (PE) before releasing the subdivider from the subdivision improvements agreements.

Upon completion of the inspection, the Licensed Professional Engineer shall file with the Governing Body, a statement either certifying that the improvements have been completed in the required manner or listing the defect(s) in those improvements.

If the inspecting engineer has certified that the improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the Governing Body shall release the subdivider from the subdivision improvements agreement.

2. As improvements are completed, the subdivider may apply to the Governing Body for release of part of the security. The portion of security released shall not exceed the portion of the work completed. Provided, however, no release of security shall be for an amount less than twenty (20) percent of the total security agreement and the improvement security shall not be reduced to an amount less than twenty (20) percent of the total security until all improvements have been completed and accepted.
3. If the Governing Body determines that any improvements are not constructed in compliance with specifications, it shall furnish the subdivider with a list of specific deficiencies and may withhold collateral sufficient to ensure such compliance. If the Governing Body determines that the subdivider will not construct any or all of the improvements in accordance with specifications, or within required time limits, it may

withdraw collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. Unused portions of these funds shall be returned to the subdivider or crediting institution, as is appropriate.

F. PAYMENT FOR EXTENSION OF CAPITAL FACILITIES

1. A subdivider may be required to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. A subdivider may not be required to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

SECTION 13: DEDICATION OF PUBLIC PARKS AND OPEN SPACE

A. GENERAL REQUIREMENTS

All subdivisions for residential building purposes, regardless of their size, shall meet the requirements for park payments or park dedications.

1. A plat of a residential subdivision shall show one ninth (1/9) of the combined area of lots five (5) acres or less in size and one twelfth (1/12) of the combined area of lots greater than five (5) acres in size, exclusive of all other dedications, is forever dedicated to the public for parks or playgrounds. No dedication may be required for the combined area of those lots in the subdivision which are larger than ten (10) acres exclusive of all other dedications. The Governing Body, in consultation with the Planning Board and Parks and Recreation Board shall determine suitable locations for such parks and playgrounds. A Parks and Recreation Board Subcommittee will review all subdivision plats and will make a recommendation to the Planning Board regarding donation of land or cash in lieu prior to any public hearing or Planning Board Action.

The park dedication and cash in lieu requirements do not apply to any division that creates only one additional lot. When two additional lots are created, the parks dedication may be waived in lieu of the setting aside of green space for social and recreational activities. The green space shall constitute one ninth (1/9) of the combined areas of lots five acres or less in size and one twelfth (1/12) of the combined area of lots greater than five acres. The developer will be required to post a bond guaranteeing the reservation of green space based on the property's fair market value as set forth in Section 13, A, 2, c) and d). Green space shall not include that set aside for required setbacks and consists of natural or wild grasses or recreational areas. This area is to be set aside and maintained for park and recreational purposes to meet the needs of persons residing therein.

2. Where, because of size, topography, shape, location or other circumstances, the entire dedication of land for parks or playgrounds or portions of the dedication of land for parks or playgrounds are undesirable, the Governing Body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land equal to the fair market value of the amount of land that would be dedicated or a combination of dedication of land and a cash donation in lieu of land.

- a) Where cash has been accepted in lieu of land donation, the amount

of cash donation must be stated on the final plat.

b) Where cash has been accepted in lieu of land dedication, the Governing Body must record in the minutes of the hearing or meeting upon which final action is taken on the proposed subdivision, why the dedication of land for parks and playgrounds was undesirable.

c) The fair market value must be determined as of the date of submission of the preliminary plat as determined by the State Appraiser or Butte Silver Bow Assessor.

d) If the subdivider does not agree with the fair market value determined by the State Appraiser or Butte Silver Bow Assessor, he or she may submit satisfactory evidence establishing an alternate valuation. This evidence shall consist of an appraisal performed by an independent qualified real estate appraiser with the developer being responsible for the appraisal fee. The valuation as determined by the independent appraiser shall be final.

3. If the proposed plat provides for a planned unit development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside therein, the Governing Body may issue an order waiving land dedication and cash donation requirements.

4. If a tract of land is being developed under single ownership as a part of an overall plan, and part of the tract has been subdivided and sufficient parklands have been dedicated to the public from the area that had been subdivided to meet the requirements of this section for the entire tract being developed, the Governing Body shall issue an order waiving the land dedication and cash donation requirements for the subsequently platted area.

5. The Governing Body may waive dedication and cash donation requirements where all of the parcels in a subdivision are five (5) acres or more in size and where the subdivider enters a covenant to run with the land and revocable only by mutual consent of the Governing Body and the property owner that the parcels in the subdivision will never be subdivided into parcels of less than five (5) acres and that all parcels in the subdivision will be used for single family dwellings.

6. The Governing Body may waive dedication and cash donations

requirements when the subdivider agrees to create a property owners' association for the proposed subdivision and to deed to the association land to be held in perpetuity for use as parks or playgrounds. The area of land to be deeded to the association shall equal the amount that would otherwise have been dedicated to public use.

7. The Governing Body may waive dedications and cash donations requirements for subdivisions to be created by rent or lease where the subdivider agrees to develop parks or playgrounds within the subdivision for the common use of the residents of the subdivision. The area of land to be reserved for this purpose shall equal the amount that would otherwise have been dedicated to the public.

8. Where a subdivision contains land to be dedicated to public use, the subdivider shall submit:

a) Title insurance guaranteeing the public interest in the dedicated land in a reasonable amount to be determined by the Governing Body. (History: Sec. 11 3863, R.C.M., 1947; New, Order MCA No. 22 2 2; Adp. 12/16/73, Eff. 1/5/74; MAC Not. No. 22 21).

9. The decision to approve the proposed parkland dedication and/or cash in lieu donation will be based upon the following considerations:

a) The type of development to occur within the subdivision (particularly large scale neighborhood unit developments); and

b) That the dedication of parkland conforms with the recommendations of the Master Plan. The Planning Board shall require reservation of such areas or sites of a character, extent, and location suitable for the needs engendered by said development for schools and other neighborhood and community purposes.

c) Written recommendations of the Parks and Recreation Board.

1. Except as provided in Section 7 of these regulations, a residential subdivision shall meet the requirements of park dedication or cash donation equal to:

a) 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

b) 7.5% of the area of the land proposed to be subdivided into parcels

larger than one-half acre and not larger than 1 acre;

- c) 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
- d) 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.

2. A park dedication may not be required for:

- a) a minor subdivision;
- b) land proposed for subdivision into parcels larger than 5 acres;
- c) subdivision into parcels that are nonresidential;
- d) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums; or
- e) a subdivision in which only one additional parcel is created.

3. The governing body, in consultation with the subdivider and the planning board may determine suitable locations for parks and playgrounds, may determine whether the park dedication must be a land donation and cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation.

4. In accordance with the provisions of subsections (4)(b) and (4)(c), the governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision.

a. The governing body may use the dedicated money to acquire, develop, or maintain, parks or recreation areas or for the purchase of public open space or conservation.

b) The Council of Commissioners may use the dedicated money to acquire, develop, or maintain parks or recreational areas or for the purchase of public open space or conservation easements only if;

(1) The park, recreational area, open space, or conservation easement is within a reasonably close proximity to the

proposed subdivision.

- c) The governing body may not use more than 50% of the dedicated money for park maintenance.

5. The local governing body shall waive the park dedication requirement if:

- a) the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development;
- b) the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under subsection (1); and
- c) the preliminary plat provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values.

6. For the purposes of this section:

- a) "cash donation" is the fair market value of the unsubdivided, unimproved land; and
- b) "dwelling unit" means a residential structures in which a person or persons reside.

SECTION 14: UNIFORM STANDARDS FOR MONUMENTATION, CERTIFICATES OF SURVEY, AND FINAL SUBDIVISION PLATS

A. UNIFORM STANDARDS FOR MONUMENTATION

1. The following standards shall govern monumentation of land surveys:

- a) All permanent control monuments or monuments set to control or mark the boundaries of any division shall be of not less than one-half inch (1/2") in diameter by twenty-four inches (24") in length with a cap of not less than one and one-quarter inch (1 1/4") in diameter marked in a permanent manner with the name and/or registration number of the Registered Land Surveyor or Engineer in charge of the survey. A cap of the above dimensions may be set firmly in concrete;
- b) Prior to the filing of any Subdivision Plat or Certificate of Survey for record, the Land Surveyor shall confirm the location of sufficient monuments to reasonably assure the perpetuation or reestablishment of any corner or boundary or retracement of the survey. The Surveyor shall clearly identify on the face of the Plat or Certificate of Survey all monuments used in the survey, and the descriptions shall be sufficient to identify the monuments without reference to another record of survey;
- c) All monuments must be set prior to the filing of a Plat or Certificate of Survey, ~~except those monuments which will be disturbed by the installation of improvements. Such monuments may be set subsequent to filing if the Surveyor certified that they will be set before a specific date;~~ It is the responsibility of the subdivider and surveyor to reset any monuments disturbed or moved during construction or development activity.
- ~~d) The Plat or Certificate shall clearly show the relationship of all adjacent monuments of record and the relationship of the monuments of record to monuments set after filing;~~
- ed) Monuments not less than three-eighths inch (3/8") in diameter and eighteen inches (18") in length and marked with the name and/or registration number of the Registered Land Surveyor or Engineer in charge of the survey shall be set at the following locations:

- (1) At each corner and angle point of all lots, blocks or parcels of land created;
- (2) At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line;
- (3) At every point of curve, point of tangency, point of reverse curve, or point of compounded curve on each right-of-way line established.

fe) When the placement of a required monument at its proper location is impractical, the Surveyor may set a reference monument near that point. Such a reference monument has the same status as other monuments of record if its location is properly shown. Where any point requiring monumentation has been previously monumented, the location of the existing monument shall be confirmed by the Land Surveyor or Engineer if used, and if so confirmed, shall likewise be considered a monument of record when properly shown and described on the Certificate or Plat filed;

gf) If the Land Surveyor or Engineer uses any previous established monuments, he that person must confirm the location of the monument. If properly confirmed and shown and described on the filed Certificate or Plat, such a monument shall be considered a monument of record;

hg. It shall be the responsibility of the Governing Body to require the replacement of all monuments removed in the course of construction.

B. UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

1. A Certificate of Survey may not be filed by the County Clerk and Recorder unless it complies with the following requirements:
 - a) Certificates of Survey shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 18 inches by 24 inches overall to include a 1½ inch margin on the binding side;
 - b) One signed ~~cloth-backed~~ mylar copy ~~and one signed reproducible copy on a stable base polyester film~~ or equivalent shall be

submitted;

- c) Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.

2. The Certificate of Survey shall show on its face or on separate sheets referenced on its face the following information:

- a) A title block including the quarter section, section, township, range, principal meridian and county of the surveyed land. Space shall be provided on the Certificate of Survey for the Clerk and Recorder's filing information. A Certificate of Survey shall not bear the title "plat," "subdivision," or any title other than "Certificate of Survey";
- b) Name(s) of the owner(s) of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining Certificates of Survey previously recorded and ties thereto;
- c) Date survey was completed and a brief description of why the Certificate of Survey was prepared, such as creation of a new parcel, retracement of section line, retracement of existing tract of land;
- d) North point;
- e) Scale bar (may not be less than 1"=200' with the scale being sufficient to legibly represent the required data on the Certificate of Survey submitted for filing);
- f) All monuments found, set, reset, replaced or removed describing their kind, size, location and giving other data relating thereto;
- g) The location of any corners of sections or divisions of sections pertinent to the survey;
- h) Witness monuments, basis of bearing, bearings and length of lines;
- i) The bearings, distances and curve data of all perimeter boundary lines shall be indicated. When the parcel surveyed is bounded by an irregular shoreline or a body of water, the bearings and distances

of a closing meander traverse shall be given;

- j) Data on all curves sufficient to enable the reestablishment of the curves on the ground. These data shall include:
 - (1) Radius of curve;
 - (2) Arc length;
 - (3) Notation of non-tangent curves.
 - k) Length of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute;
 - l) A metes and bounds legal description of the perimeter boundary of the tract surveyed;
 - m) All parcels created by the survey, designated by number or letter, and the dimensions and area of each parcel. (Excepted parcels shall be marked "not included in this survey".);
 - n) The signature and seal of the Registered Land Surveyor responsible for the survey. The affixing of his that persons seal constitutes a certification by the Surveyor that the Certificate of Survey has been prepared in conformance with the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA and ARM Title 16, Chapter 16) and the regulations adopted pursuant thereto;
 - o) Memorandum of oaths administered pursuant to Title 76, Chapter 3, Part 4, MCA.
3. Procedures for division of land exempted from public review as subdivisions and Certificates of Survey for divisions of land meeting the criteria set out in Title 76, Chapter 3, Part 2 (207), MCA, must meet the following requirements:
- a) Certificates of Survey of a division of land which would otherwise be a subdivision but which is exempted from public review under Title 76, Chapter 3, Part 2 (207), MCA, may not be filed by the County Clerk and Recorder unless it bears the acknowledged certificate of the property owner stating that the division of land in question is exempted from public review as a subdivision and citing the applicable exemption;

- b) Where the exemption relied upon requires that the property owner enter into a covenant running with the land, the Certificate of Survey may not be filed unless it bears a signed and acknowledged copy of the covenant;
 - c) For an exemption as a gift or sale to a member of the immediate family, the Certificate of Survey must bear a certificate of the property owner that the exempted division of land meets the criteria for use of the exemption specified in local regulations and the following provisions. The Certificate of Survey must also indicate the name of the grantee, the relationship of the grantee to the landowner, and the parcel to be conveyed to the grantee;
 - (1) For a gift to any member of the immediate family authorized under Title 76-3-207(b), one conveyance of a parcel of land to each member of the landowner's immediate family is eligible for exemption from review and approval of the Governing Body.
 - d) For an exemption as a relocation of a common boundary line, the Certificate of Survey must bear the signature of all landowners whose parcels are changed by the relocation. The Certificate of Survey must show that the exemption was used only to change the location of a boundary line dividing two parcels, and must clearly distinguish the prior boundary location (shown, for example, by a solid line or a notation).
4. ~~Procedures for filing Certificates of Survey of divisions of land entirely exempted from the requirements of the Act. The divisions of land described in Title 76-3-204, 205, and 209, MCA, RCM 1947, are not required to be surveyed nor must a Certificate of Survey or Subdivision Plat thereof be filed with the Clerk and Recorder.~~ A Certificate of Survey exempt from the surveying and filing requirements ~~of such a division~~ may, ~~however,~~ be filed with the Clerk if it meets the requirements for form and content for Certificates contained in this section and bears a Certificate of the Surveyor performing the survey stating the applicable exemption from the Act.
 5. Within 180 days of the completion of a survey, the Registered Land Surveyor responsible for the survey, whether ~~he is~~ privately or publicly employed, shall prepare and submit for filing a Certificate of Survey in the county in which the survey was made if the survey:

- (a) provides material evidence not appearing on any map filed with the County Clerk and Recorder or contained in the records of the United States Bureau of Land Management;
 - (b) reveals a material discrepancy in such map;
 - (c) discloses evidence to suggest alternate locations of line or point;
 - (d) establishes one or more lines not shown on a recorded map, the positions of which are not ascertainable from an inspection of such map without trigonometric calculations.
- 6. A Certificate of Survey will not be required for any survey which is made by the United States Bureau of Land Management or which is preliminary or which will become part of a subdivision plat being prepared for recording under the provisions of this chapter.
- 7. A Surveyor who completes a survey that establishes or defines a section line and creates a parcel that crosses the established or defined section line so that an irrigation district assessment boundary is included in more than one section shall note on the survey the acreage of the farm unit or created parcel in each section. The Surveyor shall notify the appropriate irrigation district of the existence of the survey and the purpose of the survey. For purpose of this section, "irrigation district" means a district established pursuant to Title 85, Chapter 7, MCA. The requirements of this section apply only to surveys for which the survey determines that, based on available public records, the survey involves land:
 - a) traversed by a canal or ditch owned by an irrigation district; or
 - b) included in an irrigation district.

SECTION 15: FLOOD HAZARD EVALUATION

A. GENERAL REQUIREMENTS

1. In areas located within the floodway of a flood of one hundred year frequency as defined by Title 76, Chapter 5, MCA, or land deemed subject to flooding as determined by the Governing Body, or if any portion of a proposed subdivision is within 2000 horizontal feet and less than 20 vertical feet of a live stream draining an area of 25 square miles or more, and no official flood way delineation or flood way studies of the stream have been made, the subdivider shall submit the following survey data in delineating the one hundred year frequency floodway. The flood way will be determined by the Water Resources Division, Department of Natural Resources and Conservation. This requirement shall be waived by the Governing Body where the subdivider has contacted the Water Resources Division and that agency has certified in writing that the proposed subdivision is not in a flood hazard area.
 - a) A copy of the plat showing contour intervals.
 - b) The location and elevation of a temporary benchmark established within the subdivision and referenced to sea level elevations with appropriate elevation adjustments.
 - c) A minimum of four (4) surveyed valley cross sections of stream according to the following requirements:
 - (1) Cross sections shall include the stream channel and floodplain on both banks;
 - (2) One cross section shall be taken at a point on the stream from which it could be extended through the subdivision;
 - (3) Three (3) cross sections shall be taken downstream from the subdivision, each approximately 1,000 feet apart, but in no case may the vertical drop between cross sections exceed 5.0 feet. The cross section farthest downstream should be located at a natural constriction or bridge location between the subdivision and the lowest cross section;
 - (4) Distances between cross sections are to be determined by stadia, distance meters or other acceptable methods of distance determination;

- (5) The overbank cross sections are to be extended to obtain a vertical rise of fifteen (15) feet above the water surface.
- d) If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the subdivision.
- e) Descriptions and sketches of all bridges within the reach, showing unobstructed waterway openings and elevations.
- f) Elevations of the water surface determined by survey as part of each valley cross section.
- g) Cross sections plotted on cross section paper of ten (10) divisions to the inch using any convenient, identified scale for vertical and horizontal distance.
- h) A profile sheet prepared on cross section paper of ten (10) divisions to the inch, showing the observed water surface profile, location of cross section, subdivision's boundaries, riverbank profile, and thalweg (lowest point of the channel bottom along the reach of stream).
- (1) A location map, such as U.S. Geological Survey 7 1/2 minute quad or similar map, showing the proposed subdivision, the locations of the cross sections, and any gauging stations.
- i) The one hundred year floodline shall be shown on the Preliminary Plat.

SECTION 16: ENVIRONMENTAL ASSESSMENT

A. GENERAL REQUIREMENTS

When required, the environmental assessment must accompany the preliminary plat and must include:

For a major subdivision:

1. A description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use with the area of the proposed subdivision;
2. A summary of the probable impacts of the proposed subdivision based on the criteria described in Section 4(D)(6).
3. A community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and
4. Additional relevant and reasonable information related to the applicable regulatory criteria adopted under MCA 76-3-501 as may be required by the governing body.

For a minor Subdivisin:

1. The requirement of preparing an environmental assessment does not apply to the first minor subdivision created from a tract of record.
2. Subsequent minor subdivisions shall provide a summary of the probable impacts of the proposed subdivision based on the criteria described in Section 4(D)(6).
1. ~~The subdivider shall provide, an environmental assessment containing the information contained in the Montana Department of Health and Environmental Sciences/Local Government Joint Application Form (Sub 1 Form).~~

B. ENVIRONMENTAL ASSESSMENT EXEMPTIONS

1. Subdivision located totally within jurisdictional areas that have adopted all of the following are considered to be in the public's best interest and are exempt from the requirment of an environmental assessment:

- a) A growth policy;
- b) Zoning Regulations;
- c) A strategy for development, maintenance, and replacement of public infrastructure.

2. The Planning Board may exempt a proposed subdivision from the requirement for completion of the any portion of the environmetnal assessment if:

- a) The subdivision is proposed in an area defined by the Growth Policy and the proposed subdivision is in compliance with that policy; or
- b) The subdivision will contain fewer than 10 parcels and less than 20 acres.
- c) When an exemption is granted under this section, the Planning Board shall prepare and certify a written statement of the reasons for granting the exemption. A copy of this statement must accompany the preliminary plat of the subdivision when it is submitted for review. The same written statement of reason shall apply when such an exemption is not granted.

~~Certain divisions of land are exempt from the requirements of submitting an environmental assessment. Exemptions shall apply as follows:~~

- ~~1. The submittal of an environmental assessment, or portions thereof, may be exempted at the discretion of the Planning Board upon written request when the proposed subdivision is within the area of the Butte Silver Bow Comprehensive Plan and the subdivision is in compliance with said plan or when the subdivision contains less than ten (10) lots and less than twenty (20) acres.~~
- ~~2. When such an exemption is granted, the Planning Board shall prepare and certify a written statement of the reasons for granting exemption. A copy of this statement shall accompany the Preliminary Plat when it is submitted for review. The same written statement of reason shall apply when such an exemption is not granted.~~
- ~~3. Using available information, the subdivider shall provide, as appropriate, responses to the questions contained in the Montana Department of Health and Environmental Sciences/Local Government Joint Application Form and any materials as required.~~

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- ~~4. All responses to the environmental assessment shall follow the State Form and shall be identified with the appropriate section heading, number and letter. If a particular question is not relevant to the proposed subdivision, state the reason it does not apply.~~

SECTION 17: ADMINISTRATIVE PROVISIONS

A. VARIANCES

1. The Governing Body may grant reasonable variances from the Design and Improvement Standards of these regulations when it determines that literal compliance with such standards will result in undue hardship to the subdivider. Such a variance may be granted when the Governing Body finds that the variance will not involve detriment to the public health, safety, ~~or welfare~~, that exceptional topographic or other physical conditions impede development according to the subdivision and that the variance will not in any manner vary from the provisions of the Zoning Ordinance, where a variance request would fall under the jurisdiction of the Zoning Board of Adjustment, ~~or Master Plan for Butte-Silver Bow~~.
- 2a. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts upon which the issuance of the variance was based.
 - b. The conditions on which the request for a variance(s) is based are unique to the property on which the variance is sought and are not applicable generally to other property.
2. Procedure:
 - a. Prior to the submission of the preliminary plat, the subdivider shall submit a written statement describing the requested variance and the facts of hardship upon which the request is based. The variance submittal shall also include the following:
 - 1) The subdivider shall submit documentation prepared by a licensed professional engineer or a licensed professional surveyor describing the details and specifications of the proposed variance, when applicable.
 - 2) The subdivider shall submit a statement describing why the proposed variance will not be contrary to public interest.
 - 3) The subdivider shall submit the appropriate documentation certified by a licensed professional engineer or licensed professional land surveyor that the proposed variance would not create any public health and safety concerns.

- b. The Planning Board shall make a recommendation to the Council of Commissioners to deny, approve or conditionally approve the requested variance, within 30 days of the submittal of the variance, prior to the Planning Board making a final recommendation to the Council of Commissioners on the preliminary plat.
- c. The Council of Commissioners shall take action to deny, approve or conditionally approve the variance requested.
- d. The subdivider will be notified of the Council's action in writing within 10 days.

3. Conditions:

- a. The Council of Commissioners may require such conditions as necessary to protect the public health and safety and to secure substantial compliance with the objectives of the Subdivision Regulations.

4. Submittal of the Preliminary Plat for Review:

- a. After the Council of Commissioners has approved, conditionally approved, or denied the variance requested, the subdivider may submit the preliminary plat to the Planning Department for review.
- b. The preliminary plat submitted to the Planning Department for review shall reflect the results of the Council of Commissioners meeting on the subdivider's variance request, specifically reflecting the Council's action to approve, conditionally approve or deny the requested variance.

5. The results of the variance shall be described on the face of the final plat within a Variance Title Block that shall include the following:

- a. Description of the variance requested.
- b. Description of the action taken by the Council of Commissioners to approve, conditionally approve or deny the requested variance.
- c. List of the conditions of approval, if relevant.
- d. Description of the justification for denial, if relevant.

- e. Date of the Council of Commissioners action on the variance request.

B. VIOLATION

1. Except as provided for in Title 76-3-303, MCA, every Final Subdivision Plat must be filed for record with the Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner or offered for sale or transfer. If illegal transfers of any manner are made, the County Attorney shall commence action to enjoin further sales, transfers, or offers of sale or transfer and compel compliance with all provisions of the Montana Subdivision and Platting Act and these regulations. The cost of such action shall be imposed against the person transferring or offering to transfer the property.

C. PENALTY FOR VIOLATION

Any person who shall violate any of the procedures of these regulations or the Montana Subdivision and Platting Act is guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in jail for not more than three (3) months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of these regulations of the Montana Subdivision and Platting Act shall be deemed a separate and distinct offense.

D. APPEALS

~~A decision by the Governing Body approving or rejecting a proposed Subdivision Plat may be reviewed by the District Court upon application for a Writ of Certiorari. The application shall specify the grounds upon which it alleges the illegality of the action of the Governing Body.~~

1. A person who has filed with the governing body an application for subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter that is arbitrary or capricious.
2. A party identified in subsection (3) who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal to District Court.

3. The following parties may appeal under the provisions of subsection (2):

- a) the subdivider;
- b) a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within Butte-Silver Bow County, where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;
- c) the county commissioners of the county where the subdivision is proposed; and

4. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

EF. VACATING RECORDED PLAT

Any plat prepared or recorded as herein provided in this section ~~required~~ may be ~~waived~~ vacated either in whole or in part as provided by Section 7-5-2501 ~~through 7-5-2504~~, 7-5-2502, 7-14-2616 (1) and (2), 7-14-2617, 7-14-4114 (1) and (2), and 7-14-4115, MCA, and upon such vacation the title to the street and alleys of ~~such the~~ vacated portions ~~to the center thereof shall~~ must revert to the owners of the properties within the platted areas adjacent to such vacated portions; provided, however, that whenever any pole line, pipeline, or any other public or private facility that is located in a vacated street or alley at the time of the revision of the title thereto, the owner of said public or private utility facility shall have an easement over the vacated land to continue the operation and maintenance of the public utility easement.

The governing body or the district court, as provided in 7-5-2502, MCA, shall take into consideration the previous platting; the manner in which the right-of-way was originally dedicated, granted, or conveyed; the reasons stated in the petition requesting the vacation; the parties requesting the vacation; and any agreements between the adjacent property owners regarding the use of the vacated area. The title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions.

FG. Subdivision Reapplication

The resubmittal of a previously denied subdivision application must meet the following

regulations:

1. Substantial change to the application must have occurred after denial of the subdivision and before reapplication;
2. The reasons for denial, as stated by the Planning Board and/or Governing Body, must be adequately mitigated prior to resubmittal;
3. The Planning Board, will determine whether or not a subdivision reapplication meets the reapplication criteria.

FH. SCHEDULE OF FEES

A schedule of fees, charges, and expenses to be paid by subdividers to defray the expense of the subdivision review and any inspections necessary for plat approval is contained in these regulations. The schedule of fees shall be posted in the ~~Clerk and Recorder's office~~ Planning Department. No action shall be taken on applications or appeals until all applicable fees have been paid in full. Applications for subdivision approval shall not be accepted unless accompanied by all applicable fees.

SECTION 18: ADOPTION

A. EFFECTIVE DATE

These regulations shall become effective on the dates indicated in the approvals given by the Consolidated City and County of Butte-Silver Bow, State of Montana. These regulations shall remain in effect until modified, amended, or rescinded by the Governing Body.

B. RESOLUTION OF APPROVAL - BUTTE-SILVER BOW PLANNING BOARD

Adoption of these regulations is recommended by the Butte-Silver Bow Planning Board, by resolution of said Board.

Planning Resolution No. 1, March 26, 1981

C. RESOLUTION OF APPROVAL - CONSOLIDATED CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA

Be it resolved that these regulations are approved by the Council of Commissioners of the consolidated City and County of Butte-Silver Bow, State of Montana.

Ordinance No. 178, February 2, 1983*

*Updates:

Ordinance No. 253, November 13, 1985

Ordinance No. 476, May 18, 1994

FEE SCHEDULE

PRELIMINARY PLAT REVIEW

~~In order to cover costs of reviewing plans, advertising, holding public hearings, and other expenses incidental to the approval of a subdivision, the subdivider shall pay a nonrefundable fee at the time of application for approval of a preliminary subdivision plat. The fees shall be charged and payable to the Butte Silver Bow Planning Department at the following rates:~~

<u>Number of Lots</u>	<u>Fee</u>
1 – 25	\$75 plus \$3/lot
26 – 50	\$125 plus \$2.50 for each lot in excess of 25
Over 50	\$175 plus \$2.00 for each lot in excess of 50

FINAL PLAT REVIEW AND INSPECTION

~~To cover the costs of on site inspection of the subdivision, reviewing final plans, advertising, holding public hearings and other expenses incidental to approval of the subdivision, the subdivider shall pay a nonrefundable fee at the time of application for final approval to the Butte Silver Bow Planning Department at the following rates:~~

<u>Number of Lots</u>	<u>Fee</u>
1 – 25	\$50
26 – 50	\$50 plus \$1 for each lot in excess of 25
Over 50	\$100 plus \$0.80 for each lot in excess of 50

MAJOR SUBDIVISIONS

The review fee for a major subdivision shall be \$300.

MINOR SUBDIVISIONS AND MINOR SUBDIVISIONS – SUMMARY REVIEW

The review fee for a minor subdivision and a minor subdivision – summary review shall be \$50 \$100.

FEES FOR VACATING OR AMENDING A PLAT

The property owners petitioning for the vacation or amendment of a filed subdivision plat shall pay all direct costs incurred by the Governing Body in vacating or amending the plat.

APPLICATION FOR APPROVAL OF PRELIMINARY SUBDIVISION PLAT

1. Name, address and telephone number of landowner and representative, if any, (e.g., engineer, surveyor) _____

2. Name of development _____
3. Location (City or County) _____
4. Descriptive Data:
 - a) Total area in acres _____
 - b) Number of lots or rental spaces _____
 - c) Minimum and maximum sizes of lots or spaces _____

Indicate the proposed use(s) and number of lots or spaces in each:

_____ Residential, single-family
_____ Residential, multi-family
_____ Types of multi-family structures and number of each:
Duplex _____ ; Four-plex _____ ; Other _____
_____ Planned Unit Development (Number of units _____)
_____ Condominium (Number of units _____)
_____ Recreational or Second Home
_____ Mobile Home Park
_____ Recreational Vehicle Park
_____ Commercial or Industrial
_____ Other (please describe) _____

5. Physical Conditions:

Provide the following information regarding the development:

- a) Current land use _____
- b) Existing zoning or other regulations _____

- c) Depth to groundwater at time of year when water table is nearest the natural ground surface within the drainfield _____
- d) Depth to bedrock or other impervious material in the drainfield area _____
6. List of materials submitted with this application:
- | | |
|----------|----------|
| a. _____ | e) _____ |
| b. _____ | f) _____ |
| c. _____ | g) _____ |
| d. _____ | h) _____ |